

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)	
)	
Request for Appeal of the Universal Service)	
Administrator and Wireline Competition)	
Bureau by)	
)	
Assumption-All Saints School,)	SDL File Nos. 357472, et al.
Jersey City, New Jersey, et al.)	
)	CC Docket No. 02-6
Schools and Libraries Universal Service)	
Support Mechanism)	
)	
Full Federal Communications Commission)	

**APPLICATION FOR REVIEW BY THE FULL
FEDERAL COMMUNICATIONS COMMISSION**

I. PRELIMINARY STATEMENT

This is a request for review/appeal of and/or waiver from a series of interrelated decisions by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program) concerning USAC Commitment Adjustment Letters issued on and after November 16, 2006, and also of the Wireline Bureau's decision on appeal, DA No. 12-1323, Released August 10, 2012.

The Commitment Adjustment Letters demand reimbursement of USAC in an amount exceeding \$600,000 paid for goods and services actually delivered to the appellants between 2003 and 2004.

This application is taken on behalf of the following schools and their service provider:

Our Lady Help of Christians School

Assumption-All Saints School (c/o St Patrick School)

St. Patrick School

Blessed Sacrament School

Holy Trinity Elementary School

St. Mary High School

Mother Seton Parochial School

Our Lady of Good Counsel High School

Our Lady of Good Counsel Elementary School

St. Lucy's School

Future Generation, Inc. (Service Provider)

Because of archdiocesan school closings in the intervening 13 years, only two of the schools, Mother Seton, and Our Lady Help of Christians, have continued their operations.

The grounds for the request for review by the full Federal Communications Commission are:

- a. That USAC and the Wireline Competition Bureau (“WCB”) erred by not recognizing that the special circumstances of this case warrant a waiver of the FCC competitive bidding requirements.
- b. USAC and WCB’s denial of the appeal was erroneous, arbitrary, capricious, and unreasonable because they failed to make adequate findings of fact based upon the record that was before them and failed to consider each of the appellants’ articulated grounds for appeal.

- c. USAC and WCB failed to apply the law correctly under the specific facts of this appeal.
- d. WCB and USAC erred in relying upon *Request for Review by MasterMind Internet Services, Inc., Federal-State Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Red 4028, FCC 00-167, ¶ 9 (rel. may 23, 2000) which is inapposite and the rulings pronounced therein do not apply to the facts of this case.
- e. USAC and WCB erred by failing to find that no conflict of interest in the competitive bidding process occurred here because the appellant schools' contact persons determined their own product needs and they were in no way related to the appellant service provider.
- f. WCB failed to give appropriate weight to the recent decision in *Request for Review of the Decision of the Universal Service Administration by Queen of Peace High School*, CC Docket No. 02-06, 26, FDD Rcd 16466 (*Wireline Comp. Bur. 2011*), and erred in failing to find that this ruling controls, mandating reversal.
- g. WCB failed to take into account that the great majority of the schools in question have closed their doors, meaning that they are not likely to contribute to the refund sought by USAC. It would be fundamentally unfair to saddle the Service Provider with the obligation to refund the entirety of the monies when it duly delivered the goods and services to the schools thirteen

(13) years ago, simply because the schools closed.

- h. Both USAC and WCB erred by failing to take into account that the erroneous email address on the Forms 470 was never contacted by any bidder or anyone else and was closed before the end of the bid process. This was a harmless, innocent error that was caused to be promptly corrected upon discovery.

Based on these reasons, the request for a full Commission appellate review from USAC's demands for reimbursement for monies paid out in 2003 and 2004 must be granted.

SCOPE OF THE APPEAL

The following tables identify the scope of appeal. Demand has been made on the service provider, Future Generation, Inc. ("Future Gen"), for repayment of all of the funds, a demand which overlooks that the installation was delivered to the schools more than thirteen (13) years ago, that most of the schools are no longer in business, and that USAC audits at the time confirmed that the deliveries were made and the services were rendered!

Our Lady Help of Christians School -2003			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	965603 965611 965626 965656	965670 965685 965699 965713	965732 965747 965774 965791 965814
Billed Entity Name:	Our Lady Help of Christians School		
FCC Registration Number from Letter:	12005054		
Billed entity number:	6575		
Form 471 Application Number:	357752		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Assumption-All Saints School - 2003			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	964519 964526 964534 964553	964560 964570 964580 964593	964603 964615 964623 964633 964662
Billed Entity Name:	Assumption-All Saints School		
FCC Registration Number from Letter:	12004859		
Billed entity number:	7348		
Form 471 Application Number:	357472		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Blessed Sacrament School - 2003			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	967162 967168 967175 967181	967194 967201 967208 967228	967238 967264 967278 967295 967306
Billed Entity Name:	Blessed Sacrament School		
FCC Registration Number from Letter:	12004883		
Billed entity number:	7167		
Form 471 Application Number:	358234		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Holy Trinity Elementary School - 2003			
Notice of Commitment Adjustment Letter:	July 18, 2006		
Funding Request Numbers:	964893 964905 964916 964926	965099 965110 965114 965128	965138 965150 965160 965174
Billed Entity Name:	Holy Trinity Elementary School		
FCC Registration Number from Letter:	12004941		
Billed entity number:	7167		
Form 471 Application Number:	357557		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

St. Mary's High School - 2003			
Notice of Commitment Adjustment Letter:	July 20, 2006		
Funding Request Numbers:	970477 970480 970481 970483	970486 970487 970490 970491	970468 970471 970474
Billed Entity Name:	St. Mary High School		
FCC Registration Number from Letter:	12005294		
Billed entity number:	7317		
Form 471 Application Number:	359171		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Our Lady of Good Counsel Schools - 2003			
Notice of Commitment Adjustment Letter:	July 20, 2006 (to Ania Jarmulowicz)		
Funding Request Numbers:	967480 967488 967500	967510 967520 967532	967555 967568 967585
Billed Entity Name:	Our Lady of Good Counsel Schools		
FCC Registration Number from Letter:	12005096		
Billed entity number:	7119		
Form 471 Application Number:	358346		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Our Lady of Good Counsel Elementary School - 2003			
Notice of Commitment Adjustment Letter:	July 20, 2006 (to Pat McGrath)		
Funding Request Numbers:	970667 970670 970672	970674 970676	970678 970680
Billed Entity Name:	Our Lady of Good Counsel Elementary Schools		
FCC Registration Number from Letter:	None on letter		
Billed entity number:	7118		
Form 471 Application Number:	359187		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Mother Seton Parochial School - 2003			
Notice of Commitment Adjustment Letter:	July 18, 2006		
Funding Request Numbers:	965254 965264 965279 965283	965302 965316 965330 965358	965372 965387 965407 965426 965459
Billed Entity Name:	Mother Seton Parochial School		
FCC Registration Number from Letter:	12004875		
Billed entity number:	7011		
Form 471 Application Number:	357662		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

St. Patrick School - 2003			
Notice of Commitment Adjustment Letter:	July 19, 2006		
Funding Request Numbers:	966985 966986 966990 967000 96701	967026 967030 967039 967045 967049	967053 967057 967062 966978 966980 966983
Billed Entity Name:	St. Patrick School		
FCC Registration Number from Letter:	12005310		
Billed entity number:	7341		
Form 471 Application Number:	358142		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Saint Lucy's School - 2003			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	970547 970549 970553 970556	970561 970566 970569 970572	970575 970576
Billed Entity Name:	Saint Lucy's School		
FCC Registration Number from Letter:	12005260		
Billed entity number:	7111		
Form 471 Application Number:	359178		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

With respect to each institution named above, this appeal specifically embraces any and all Funding Requests which may not have been included in the above listings either due to mistake, inadvertence or a lack of adequate notice that a Funding Request Number is being challenged by USAC.

Future Gen, SPIN 143007891, likewise appeals each and every one of the above Notifications of Commitment Adjustment Letters, the substance of which is reiterated in "tandem" versions of the letters sent directly to Future Gen and addressed to one of its principals, Mr. Howard Gerber. Future Gen's appeal should be construed as representing each and every one of the Funding Request Numbers tracked above for each of the institutions as well as any and all other relevant Funding Request Numbers which may not appear above through inadvertence, mistake or want of good and adequate notice.

PROCEDURAL HISTORY

On or about June 21, 2006, each appellant school received a fax from the compliance department of USAC with a question regarding the Form 470 Funding Year 2003 application:

“Please explain why an email address associated with service provider Future Generation appears in Block 6 of the cited Form 470...” *Attached hereto as Exhibit A is a fax from USAC to Holy Trinity Elementary School representative of the same fax each appellant school received.*

Each school timely responded with its reasons for the erroneous inclusion of the provider’s email address.

Thereafter, between July 18, 2006 and August 4, 2006, as outlined in the preceding tables, the schools and Future Gen received a USAC “Notification of Commitment Adjustment Letter” for the 2003 funding year, essentially seeking reimbursement of several hundred thousand dollars committed and already spent for services and goods already rendered and received in the two to three years prior to these Notifications. *Attached hereto as Exhibit B is a commitment adjustment letter from USAC to Holy Trinity Elementary School representative of the same commitment adjustment letter each appellant school received.*

On or about September 7, 2006, the schools and Future Gen submitted a joint appeal to USAC from its myriad Commitment Adjustment Letters. *Attached hereto as Exhibit C (sans exhibits) is the joint appeal filed with USAC.* Despite appealing USAC’s initial decision, on or about September 18, 2006, eleven days *after* submitting their appeal, each school and Future Gen began to receive a series of USAC Demand Payment Letters directing full payment of the adjustment amount within 30 days. *Attached hereto as Exhibit D is a demand payment letter to Holy Trinity*

Elementary School representative of the same demand payment letter each appellant school received.

On or about September 20, 2006, and on several dates thereafter, the appellants' counsel wrote to USAC, alerting it to the appeal and requesting withdrawal of the demands during its pendency. USAC not only ignored counsel's letter but commencing with November 20, 2006, each school began to receive a Second Notice Demand Payment Letter. *Attached hereto as Exhibit E is a second demand payment letter to Holy Trinity Elementary School representative of the same second demand payment letter each appellant school received.* Subsequent correspondence by appellants' counsel to USAC about the demands was similarly ignored by the agency.

Beginning on November 16, 2006, USAC commenced sending the schools its "Administrator's Decision on Appeal," which denied their appeals. More USAC Demand Letters followed. The schools and Future Gen are herein appealing the entirety of the matter to the Federal Communications Commission. *Attached hereto as Exhibit F is a copy of each denial letter of each appellant schools' appeal to USAC.*

To the shock and surprise of Future Gen and the appellant schools, the Wireline Competition Bureau released an Order on August 10, 2012, denying the 2006 appeal of USAC's decision. *Attached hereto as Exhibit Q is a copy of the Bureau's August 10, 2012 Order.*

The Appellants requested review of this WCB decision by appeal filed on or about September 7, 2012. On January 3, 2017, WCB sent a memo to counsel for the Appellants with a copy of a Public Notice indicating that the Appellants' request was dismissed on reconsideration and on the merits. *See Exhibit R appended hereto, WCB Memo of January 3, 2017 and attached Public Notice at Footnotes 5 and 6.* This application for review by the full Commission followed.

STATEMENT OF FACTS ON APPEAL

A. The Appellants

The facts of each school's appeal and of Future Gen's appeal are largely identical. Future Gen is a service provider engaged in the business of providing computer, telecommunications and networking services to various schools and libraries throughout the State of New Jersey. Its services include system and software sales, technical and network administration services, complete networking services (copper, fiber optic, and wireless), comprehensive maintenance and support, as well as training. Future Gen has been engaged as a service provider to K - 12 educational organizations in the E-rate program since 1998.

Each of the schools involved in this appeal is a faith-based, inner-city institution which received and paid for the services purchased through the Forms 471's in 2003-2004. Located in New Jersey's most urban and economically challenged communities, including Newark, East Orange, Union City and Jersey City, these institutions long teetered on a delicately balanced, hand-to-mouth financial existence. The proof of this, of course, is the closing of seven of the schools in the intervening years. The remaining schools' budgets will be thrown off-kilter if forced to rebate monies already spent — let alone, from more than a decade ago. *See Exhibit G, affidavit of Howard Gerber filed with USAC as part of the appeal below.* As will be shown herein, this is far more financial hardship than the schools could ever deserve for having committed a naively innocent mistake.

B. The Financial Hardship:

Amounts Encompassed by USAC's Demands for Reimbursement

i. USAC Commitments Actually Disbursed for Funding Year 2003 - 2004

To give perspective into this matter, the Commission needs to appreciate the scope of USAC's demands for reimbursement of the funds committed and then actually spent in 2003-2004:

Funding Year 2003-2004	
Total Original Funding Commitment to Appellants from USAC	\$1,040,772.85
Amount of Adjustment Demanded	\$1,040,772.85
Funds Actually Disbursed to Appellants	\$731,026.83
Funds Which USAC Seeks to Recover	\$731,026.83

In the case of the schools, even setting aside USAC commitments which were never funded, the amounts sought to be recovered are as follows:

Appellant School	Funds Actually Disbursed and For Which Recovery is Sought
Assumption - All Saints	\$63,627.82
Blessed Sacrament	\$76,948.59
Holy Trinity	\$114,848.86
Mother Seton Interparochial	\$49,810.95
Our Lady of Good Counsel Elem.	\$84,834.79

Our Lady of Good Counsel H.S.	\$46,747.02
Our Lady Help of Christians	\$71,385.55
St. Lucy's	\$42,992.40
St. Mary's H.S.	\$95,256.68
St. Patrick	\$84,574.17
TOTAL:	\$731,026.83

As the chart shows, each of the amounts at issue is not small by urban-center, parochial school standards where teacher salaries often start in the low to mid-\$20,000 range. If full recovery is awarded, the schools which still remain open, at minimum, will suffer great financial hardship and Future Gen, the service provider, is likely to close its doors for good. *See Gerber Affidavit attached hereto as Exhibit G; see also appended hereto, Affidavit of Raymond Barto filed with USAC as part of the appeal below attached hereto as Exhibit H.*

ii. USAC Commitments Which Were Never Disbursed for Funding Year 2003-2004

Adjustment (and loss) of the undisbursed commitments, another \$309,746.02, will not affect the schools or Future Gen. As set forth in the Gerber Affidavit, there is often a time gap between the posting of approved funding work by the schools' Forms 471, and the time for deployment of the goods and services ordered thereby. In the case of the undisbursed commitments, totaling \$309,746.02, work related to these Forms 471 was determined by Future Gen, in conjunction and consultation with the schools, to be excessive, unnecessary or redundant when the time arrived for performance.

Thus, the Commission must take into consideration that the appellants, in the relevant year, actually turned away \$309,746.02 in approved funding, an action which would surely be at odds with any intent, plan or conspiracy aimed at achieving fraud or abuse of USAC funding or at tainting the bidding process for personal benefit.

iii. Confirmed Receipt of the Goods and Services Under the Forms 471

Significantly, as set forth in the Gerber affidavit, USAC audited the schools to determine whether the goods and services outlined in the posted Forms 470 and 471 had been delivered and were received. Its auditor reported nothing out of order and confirmed that Future Gen sold the goods and services to the schools and the schools received and paid for them. *See also the Gerber Affidavit which confirms this as the case.* This is not a case where fraud has been raised by USAC.

C. USAC's Basis for Demanding Reimbursement of \$731,000

In each instance, the USAC Commitment Adjustment Letters outlined above relate that each institution's 2003, FCC Form 470, at Block 6, not only employs an incorrect email address for the applicant but, in fact, erroneously (but innocently) references Future Gen's school services help line address, sld@futuregeninc.com. Based on this, both USAC and WCB sought to rescind the myriad Funding Requests cited in the tables above, reasoning that any applicant's Form 470 reference to a service provider's email address would taint the competitive bidding process mandated by the Commission.

In denying the appeals below, and in concentrating on the email address *faux pas* to the point of donning blinders, WCB and USAC failed and refused to give any weight to the counterbalancing

effect of the other, correct information at Block 6 on the Forms 470. Each and every school's Forms 470 contact name, address, telephone number, and fax number is accurate, correct, above reproach and without any taint or question. *Attached hereto as Exhibit I is the Form 470 for Holy Trinity Elementary School representative of the same manner in which each appellant school filled out Block 6.*

i. Mother Seton Interparochial's Forms 470

Specifically, Block 6 of Mother Seton Interparochial School's Forms 470 read as follows:

6a.	Contact Person's Name:	Mary McErlaine
6b.	Street Address	1501 NEW YORK AVE UNION CITY NJ 07087 4323
6c.	Telephone Number	(201) 863-8433
6d.	Fax Number	-()-
6e.	E-mail Address	sld@futuregeninc.com

When asked by USAC to explain the email reference, the schools' replies varied but their recurring theme was that an inadvertent mistake had been made. On July 3, 2006, by fax memorandum, Ms. McErlaine of Mother Seton Interparochial School advised Kelly Miller of USAC:

The e-mail address in question . . . was actually entered as a technical contact [sic] address we use to communicate with Future Generation. This address was set up as an additional means of contacting our support company with any questions we need answered during the application process with regard to our exciting network environment. Since the entire e-rate process relates to technology and equipment, I thought it best to include a technical contact in this block. I did not fully understand that this needed to be an address associated with the school itself, and not one of the service provider. *See Exhibit J appended hereto, fax memorandum, July 3, 2006, McErlaine to Miller.*

ii. Our Lady of Good Counsel's Forms 470

Specifically, Block 6 of Our Lady of Good Counsel Schools' Forms 470 read as follows:

6a. Contact Person's Name:	Ania Jarmulowicz
6b. Street Address	243 WOODSIDE AVE NEWARK NJ 07104 3113
6c. Telephone Number	(973) 482-1209
6d. Fax Number	-0-
6e. E-mail Address	sld@futuregeninc.com

Ania Jarmulowicz, the Vice Principal of Our Lady of Good Counsel Schools, discussed the error in her June 27, 2006 communication to Ms. Miller:

The reason why the email address belonging to Future Generation was entered on our application is simply due to a misunderstanding of its purpose, and miscommunication between Future Generation and us. Future Generation offers technical support and maintenance for Our Lady of Good Counsel Schools. Assuming the technical questions would arise regarding our present network configuration, and that Future Generation would be equipped to answer such questions, we requested that Future Generation provide us with a contact email address for this purpose. They created a separate address for this technical purpose, and provided it to us. Once again, they and we thought it was for technical questions regarding our existing network, not for questions relating to future bids. We placed this address in Block 6 for this purpose.

We failed to understand that this e-mail address could be used in relation to the bidding process, which was not our intention. We truly misunderstood the purpose of this e-mail address, and its use in this block. *See Exhibit K appended hereto, June 27, 2006 fax memorandum, Jarmulowicz to Miller.*

iii. St. Patrick's School's Forms 470

Specifically, Block 6 of St. Patrick's School's Forms 470 read as follows:

6a. Contact Person's Name:	Pat West/ Sr. Maeve McDermott			
6b. Street Address	509 BRAMHALL AVE JERSEY CITY NJ 07304 2730			
6c. Telephone Number	(201) 433-4664			
6d. Fax Number	(201) 433-0935			
6e. E-mail Address	sld@futuregeninc.com			

St. Patrick's School in Jersey City provided a similar explanation:

Please be advised that the following email address, sld@futuregeninc.com was used in error. In checking back through my files, I see that the application process for the 2003 funding year was started around the same time that Future Generation had created a "technical support" email address for their clients use. This was meant as a means of communication to answer any questions during the application process regarding our existing infrastructure, which they maintain. Having not given it much thought, I simply put a technical contact email address in the application instead of my St. Patrick email address. See Exhibit L appended hereto, fax from Pat West of St. Patrick School to Kelly Miller.

iv. St. Mary High School's Forms 470

Block 6 of St. Mary High School's Forms 470 provide:

6a. Contact Person's Name:	Beatriz Esteban-Messina			
6b. Street Address	209 3RD ST JERSEY CITY NJ 07302 2801			
6c. Telephone Number	(201) 656-8008			
6d. Fax Number	(201) 653-4518			
6e. E-mail Address	sld@futuregeninc.com			

The same was true of St. Mary High School. On July 7, 2006, Ms. Beatriz Esteban wrote to Ms. Miller:

I inadvertently used an e-mail address that is assigned to us for technical support. Knowing most of the application process pertains to hardware/software and technology in general, Future Generation set up an e-mail address for their clients to ask any technical questions in relation to their existing network which may arise during the e-rate filing process. I thought it best to have any correspondence between the SLD and us go to this specific e-mail account. Understanding the importance of timely response to the SLD, I chose to use this e-mail address so as not to overlook any important requests made during the application process. Unfortunately, I did not realize at the time that this-email address was designed for use between us and our technical support company to explain questions we may have about our network so that we could better understand and answer any questions the SLD may ask. . . . See *Exhibit M* appended hereto, letter, July 7, 2006, Beatriz Esteban to Kelly Miller.

v. ***Blessed Sacrament School's Forms 470***

Block 6 of Blessed Sacrament School's Forms 470 state:

6a. Contact Person's Name:	Nathan Potts		
6b. Street Address	610 CLINTON AVE		
	NEWARK	NJ	07108 1421
6c. Telephone Number	(973) 824-5859		
6d. Fax Number	(201) 624-6030		
6e. E-mail Address	sld@futuregeninc.com		

A new principal, Alice M. Terrell of Blessed Sacrament School, had no personal knowledge of any employment of the Future Gen tech support email address on the Form 470 for 2003, but learned from her staff

... that this was an e-mail address set up by Future Generation (our support company at the time) to communicate questions back and forth pertaining to our network environment at that time and to better understand any questions asked of us from the SLD communicating directly with Future Generation. See Exhibit N appended hereto, July 19, 2006 letter, Terrell to Miller.

This, of course, corroborates exactly what the other school officials have said, namely, that the email address was a technical services help and support portal for Future Gen.

vi. Holy Trinity School's Forms 470

Block 6 of Holy Trinity School's Forms 470 provide the following information:

6a. Contact Person's Name:	Sr. Janet Roddy			
6b. Street Address	43 MAPLE AVE			
	HACKENSACK	NJ	07601	4501
6c. Telephone Number	(201) 489-6870			
6d. Fax Number	(201) 489-2981			
6e. E-mail Address	sld@futuregeninc.com			

Sister Janet Roddy, the principal of Holy Trinity School, also corroborates:

Please accept my apologies in the confusion of entering an e-mail address belonging to Future Generation as a means of contact. I seem to recall having many issues with my personal e-mail address at the time the 470 application process started, and was hesitant to provide that e-mail as a means of contact. Therefore, I supplied an e-mail address set up by Future Generation for technical support between us and them to answer questions regarding our existing infrastructure which they have maintained for us on an as-needed basis.

Please note that the e-mail address on my application, sld@futuregeninc.com is no longer in existence. See Exhibit O appended hereto, June 30, 2006 letter, Sister Janet to Miller.

Without beleaguering the issue, the remainder of the appellant schools' Form 470s Block 6 provided the same information.

D. Counterbalancing Information at Block 6 for Any Interested Provider

Significantly, then, each of the schools' Forms 470 bore the correct addresses, phone numbers, fax numbers, and the identities of the contact persons for the institution. Given all of this information to counterbalance the erroneous inclusion of Future Gen's customer service email address, it cannot be fairly said that these special circumstances constituted a "taint." Indeed, as Gerber pointed out to USAC in his affidavit,

Finally, and of equal significance, as the e-mail address was terminated immediately upon Future's awareness of its use, *no correspondence was ever received* through this address. No bidding queries were made, no questions were asked for bidding purposes, and, ironically, no product support questions were ever sent to us by the schools, their staff, or the Schools Libraries Division of USAC. Throughout its short existence, the Future Generation support email address was silent, dormant and served no useful purpose, let alone "tainting" the bidding process This is not surprising. Although the Future email address was inadvertently listed on the Form 470s as the preferred method of contact, most service providers engaged in our business would have immediately recognized that the email address was that of another provider and would have chosen to utilize another means of contact with the institution.

E. Future Generation's Email Address for Support

On July 19, 2006, Future Gen's operational director, Howard Gerber, wrote to Ms. Miller to confirm that the email address was essentially a customer support portal:

. . . Several less technical clients inquired with us about the technicalities and limitations of their present environment at that time, and stated they required timely responses due to the nature of the E-Rate process, and needed to determine their additional

requirements prior to filing their 470 forms. As their questions were numerous and consistent for a period, we created a separate email address (sld@futuregeninc.com). The purpose of this address was for schools to ask technical questions relating to their present environment. Also, this “specific” e-mail box would be treated as time sensitive by our staff, so as to comply with our clients’ requests for a quick response . . . The segregated mailbox allowed for the prioritization that the schools requested. This was meant to be a means of communication between our clients and us for questions about their present environment, such as the capacity of their network, servers, bandwidth, hard drive space, speed / usage limitations, etc. It was NOT meant to be a means for the SLD, or potential vendors, to communicate with Future Generation, or the applicants. See *Exhibit P* appended hereto, July 19, 2006 fax memorandum, Gerber to Miller.

Gerber also explained what his investigation disclosed concerning the use of the email address by the schools in their Forms 470:

Unfortunately, when asked for an e-mail address in their Form 470 application, they innocently thought they should put the e-mail address set up at Future Generation for technical support. Since a majority of the funding requests pertain to hardware and software, they assumed that any technical questions the SLD had in relation to these items would best be answered by us. They misunderstood our purpose of setting up this additional means of communication, and the purpose of the Block 6 request. They also overlooked the fact that service providers are not allowed to be involved on the applicant’s behalf. See *Exhibit P* appended hereto, July 19, 2006 fax memorandum, Gerber to Miller.

Finally, and of equal significance, Gerber advised Miller, “As the e-mail address was terminated immediately upon our awareness of its use, no correspondence was received through this address.” (Emphasis added to original.) See *Exhibit P* appended hereto, July 19, 2006 fax memorandum, Gerber to Miller. Ms. Jarmulowicz, the Vice Principal of Our Lady of Good Counsel Schools, likewise told Ms. Miller:

... after Future Generation learned that this e-mail address was sited in our application, they shut the address down to avoid any conflict of interest between a service provider and applicant. This was early in our E-Rate experiences. With the submission of each application, we gain a better understanding of what is actually being requested and hope to avoid supplying any incorrect information on future application [sic]. We apologize for this error, but caught it very early and prevented any conflict whatsoever, as Future Generation had no communication on our behalf. *See Exhibit K appended hereto, June 27, 2006 fax memorandum, Jarmulowicz to Miller.*

As set forth in the Gerber Affidavit, Future Gen's best estimation of the creation of the email address in question is November 28, 2003, which is three or so days before the filing dates of the first relevant Form 470 submitted to USAC. The schools' email designation error was discovered by Future Gen on or about December 18, 2003, the date when the email box was immediately terminated by the company. This means that the email address was only "in play" as part of the Forms 470 error from December 1st through December 18th.

Significantly, when considered with the fact that no email was ever received at the email server for this address, it is clear that each Form 470 posted on and after December 18th would have been wholly effective and without any bidding "taint."

Based on Future Gen's review of the records provided by USAC and some of the schools, the last submissions made before the termination of the address were by Our Lady of Good Counsel High School and Elementary School. Although the SLD has characterized the ensuing competitive bidding as tainted, that the email box was closed by Future Gen within 18 days of the first posted Form 470 and that no service provider queries were received in it, underscore that this email identification error proved not only innocuous but entirely moot.

F. Independent, Alternative Bidding Avenues Used by the Schools

A final factor which negates the import of the schools' unintentional address error is that several of the schools joining in this appeal prepared their own equipment and service lists as informal Request for Proposals (RFPs) for the services sought through the Forms 470. These included Our Lady of Good Counsel High School and elementary school, St. Patrick School, Blessed Sacrament, Mother Seton InterParochial, and St. Lucy's School. Accordingly, for these schools there were independent avenues for third party bidding, mitigating any "taint" that might be attributable to the email box gaffe.

Indeed, this argument is not merely academic: as set forth in the Gerber Affidavit, each of these six schools received verbal inquiries from third party vendors concerning the goods and services being sought. Given these inquiries, it simply cannot be said that their bidding processes were "tainted." To the contrary, insofar as inquiries were fielded, they can only be termed successful.

G. Goods and Services Purchased by the Schools Forms 470 and 471 were Delivered

Finally, in each instance, the services ordered by the Forms 470 were delivered, installed and maintained as required by the agreements between the appellant schools and the appellant service provider, Future Gen.¹ There has been no allegation, nor can there be, of fraud, abuse, or waste, and each school applicant continued, and in the case of the schools which are still open, continues to this

¹ Four schools, Our Lady of Good Counsel High School and elementary school, and Holy Trinity School, and Mother Seton InterParochial have been subject to USAC's BearingPoint technology audits. In no instance has BearingPoint alleged that any Future Gen contract for goods or services was breached or that the service provider had otherwise failed to deliver as promised.

day, to maintain its relationship with Future Gen. In turn, Future Gen continues to support and maintain each still-operating school's computer networks, etc.

Legal Argument

Point I

USAC SHOULD BE ORDERED TO DISCONTINUE ITS RECOVERY ACTIONS AGAINST THE APPELLANTS HEREIN BASED ON THE WIRELINE COMPETITION BUREAU'S QUEEN OF PEACE ORDER

The grounds for Request for Review of the Decision of the Universal Service Administrator by Queen of Peace High School, CC Docket No. 02-6, 26 FCC Rcd 16466 (Wireline Comp. Bur. 2011) ("Queen of Peace Order"), were that USAC approved Queen of Peace High School's ("QP") request for telecommunication services and Internet under the E-rate program but a year later rescinded its funding commitments on grounds that the school had violated competitive bidding processes. USAC supported its finding by pointing to the fact that a service provider's name had appeared on the school's Form 470 and that the named service provider was ultimately selected.

More specifically, QP submitted its Form 470 on November 17, 2008 to commence the competitive bidding process for E-rate qualified services. On February 2, 2009, the school filed its FY 2009 FCC Form 471 seeking support for its requested services. On May 5, 2009, USAC approved the school's request for services and Internet access. A year later, however, USAC rescinded the funding commitments on grounds that the school violated competitive bidding processes because a service provider's name appeared on the FCC Form 470.

The school filed a timely appeal with USAC, which USAC denied on grounds that it had preselected the named service provider or had the propensity to award the named service provider the contract based on the provider's name being included in its application and, in any event, the school had violated the competitive bidding process. The school thereafter filed an appeal of USAC's decision with the Wireline Competition Bureau.

The WCB conducted a *de novo* review of QP's alleged violation of the competitive bidding process. In its analysis, the Bureau considered the fact that although the school had erroneously included the name of a service provider, it also in the same form "indicated more generally that it was seeking bids for web-hosting services." *Id.*, at paragraph 7. In response, several service providers provided bids. The Bureau concluded that the general description of services sought as set forth on the form did not prevent vendors from bidding and the "errant description [including a vendor's name] did not undermine the competitive bidding process." Queen of Peace Order, at paragraph 7.

Although the Bureau made clear in its order that permitting applicants to reference specific vendors in their Form 470 poses a risk to the competitive bidding process, it declined to penalize Queen of Peace "or other applicants who may have engaged in this practice before the release of this order." Queen of Peace Order, at paragraph 7.

The Queen of Peace Order ("Order") provides that applicants shall include the words "or equivalent" after referencing a service provider or vendor in its Form 470 or request for proposal ("RFP"). The dictates of the Order go into effect with Funding Year 2013.

In Request for Review of the Decisions of the Universal Service Administrator by Saint Raphael Academy, SLD File Nos. 548823, 602910, 654635, CC Docket No. 02-6, the school

committed a similar offense by referencing a specific vendor or service provider in its Form 470 or RFP. The Bureau found that “[t]he instant requests for review involve the same alleged competitive bidding issue addressed in the *Queen of Peace Order*, in which we concluded that allowing applicants to reference specific vendors, products or services on their FCC Form 470 or request for proposal (RFP) poses a risk to the competitive bidding process, but declined to penalize applicants that engaged in such practice prior to release of that order.” *Id.* at paragraph 1. Because the violations at issue occurred prior to the release of the Queen of Peace Order, the WCB granted Saint Raphael’s appeals.

Like Queen of Peace and Saint Raphael Academy, *supra*, the appellants in this instant matter erroneously but innocently referenced the name of a service provider, Future Gen, in their respective Form 470's. Regardless of this reference, however, the Form 470 in each school’s instance adequately provided a general description of services sought and the identity of the primary contact person such that the competitive bidding process was not impaired. Additionally, unlike *Queen of Peace* and *Saint Raphael Academy*, Future Gen was able to mitigate any interference with the competitive bidding process by deleting the email address erroneously referenced on the schools’ Form 470. As previously mentioned, this email address was in existence for less than 3 weeks and in that time period did not receive any communications whatsoever.

The appellants’ inadvertent mention of Future Generation in the appellants’ Form 470 occurred in the Funding Year 2003, well before the Queen of Peace Order was released in December 2011 but nevertheless while the instant matter was pending appeal. As such, the Commission must apply the Queen of Peace Order to the instant matter and in doing so must conclude that like *Queen of Peace* and *Saint Raphael Academy*, the instant appellants’ inadvertent reference to a service

provider in its Form 470 did not hamper the competitive bidding process and thus USAC should cease and desist from pursuing reimbursement for the Funding Year 2003.

Although the WCB ruled on this point on the merits in its Public Notice decision, the Commission should reject WCB's strained attempt to distinguish *Queen of Peace* and the instant matter. The Bureau is merely arguing form over substance: it truly does not matter where the Service Provider's name or email address might appear on the Form 470. There is little difference between inclusion of its name and the list of services sought or as an erroneous (and timely corrected) email address. In both cases, a mistake was made and should be recognized as a forgivable error.

Accordingly, the *Queen of Peace* rationale should be applied by the Commission to this matter.

Point II

THE EQUITABLE DOCTRINES OF LACHES AND ESTOPPEL MUST BAR THE BUREAU'S UNTIMELY DECISION, RELEASED 7 YEARS AFTER AN APPEAL OF USAC'S DECISION WAS FILED

Despite WCB's assertion that the Appellants relied solely "on arguments that have been fully considered and rejected by the Bureau in the same proceeding," the points raised in this Legal Argument were not considered by USAC nor did the WCB pay any heed to laches, estoppel and waiver in its Public Notice dismissal of the Appellants' appeal. See Exhibit R at Fn. 5 and Fn. 6. Accordingly, there is no bar to the full Commission considering this point.

"Laches may be defined generally as 'slackness or carelessness toward duty or opportunity.'" Webster's Third New International Dictionary (1969). In a legal context, laches may be defined as the neglect or delay in bringing suit to remedy an alleged wrong, which taken together with lapse of

time and other circumstances, causes prejudice to the adverse party and operates as an equitable bar. See W.M. Tabb, *Reconsidering the Application of Laches in Environmental Litigation*, 14 Harv.Envntl.L.Rev. 377 n. 1 (1990). "[Laches] exacts of the plaintiff no more than fair dealing with his adversary." 5 J.N. Pomeroy, *Equity Jurisprudence* § 21, at 43 (Equitable Remedies Supp.1905)".
A.C. Aukerman Co. v. RL Chaides Const. Co., 960 F.2d 1020, 1028-1030 (1992).

In Environmental Defense Fund v. Alexander, 614 F.2d 474 (5th Cir.), cert. denied, 449 U.S. 919, 101 S.Ct. 316, 66 L.Ed.2d 146 (1980), the court explained the rationale underlying the doctrine of laches in this apt manner:

Laches is a clement doctrine. It assures that old grievances will some day be laid to rest, that litigation will be decided on the basis of evidence that remains reasonably accessible and that those against whom claims are presented will not be unduly prejudiced by delay in asserting them. Inevitably it means that some potentially meritorious demands will not be entertained. But there is justice too in an end to conflict and in the quiet of peace.

See also, A.C. Aukerman Co. v. RL Chaides Const. Co., 960 F.2d 1020, 1029-1030 (1992).

"Equity has acted on the principle that laches is not like limitation, a mere matter of time; but principally a question of the inequity of permitting the claim to be enforced — an inequity founded upon some change in the condition or relations of the property or the parties." Holmberg v. Armbrecht, 327 U.S. 392, 396 (1946).

In the instant matter, several changes in condition have taken place in the past several years making it inequitable for USAC to pursue reimbursement from the schools for Funding Year 2003. Most poignantly, several of the appellant schools have closed. The closure of these schools,

however, are merely one result of the defining change in condition common to all appellants herein, namely, the economy. At this point in time, none of the ten (10) appellant schools are in any position to make reimbursement of monies paid out and spent for Funding Year 2003. Moreover, appellants reasonably believed that USAC was no longer pursuing reimbursement for the alleged violations of the competitive bidding process since it had not heard a word from USAC, the Wireline Competition Bureau or the FCC between 2006, when they filed their initial appeal, and 2012. This extends another nearly five (5) years with the Public Notice decision of the WCB transmitted at the start of 2017. On these grounds, USAC should be estopped from pursuing reimbursement for Funding Year 2003.

In their decisions, neither USAC nor WCB have addressed this.

On a more procedural note, the authority upon which USAC relies, 47 C.F.R. §54.504, at §54.504(a)(1)(c)(x), provides a time frame for which applicants must keep records for purposes of audit. The mandate of the regulation provides that applicants “will retain for five years any and all worksheets and other records relied upon to fill out its application, and that, if audited, it will make such records available...” 47 C.F.R. §54.504(a)(1)(c)(x) (Emphasis added). It is logical to infer that because USAC requires documents be kept for a period of five years, that time frame serve as a guide for all actions taken against applicants by USAC.

As this matter has been pending in excess of five years and relates to a funding year more than a decade ago, USAC should be equitably barred from pursuing reimbursement.²

² It should also be noted that New Jersey has a six (6) year statute of limitations for contract matters. Consequently, whoever is made to pay back the entirety of the reimbursement will have no right to bring a claim-over against the service provider or, in its case, any school.

Point III

GIVEN THE POTENTIAL HARDSHIP AND THE BALANCING OF THE EQUITIES, GOOD CAUSE EXISTS FOR THE COMMISSION TO GRANT A WAIVER TO THE APPELLANTS

Despite the language of footnote 5 in WCB's Public Notice decision, neither the USAC denial of appeal nor the more recent WCB denial, addressed the waiver argument made in this point.

USAC is the not-for-profit corporation responsible for administering the Universal Service Fund and the four federal universal service programs, one of which is Schools and Libraries. The schools and libraries support mechanism, also known as the E-rate program, is administered under FCC oversight. *See generally, Fifth Report and Order, CC Docket No. 02-6 (FCC 2004).* Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections. *See, 47 C.F.R. § § 54.501-54.503; see also, Request for Review and/or Waiver, Glendale Unified School District, DA 06-244, CC Docket No. 02-6 (2006).* Telecommunications and related technological discounts are to be provided in response to a bona fide request for services by an eligible entity. *Request for Review, MasterMind Internet Services, CC Docket No. 96-45 (2000).*

The Commission concluded in the Universal Service Order that Congress intended, by providing support only for those schools and libraries making bona fide requests for service, to require accountability on the part of the schools and libraries. To ensure such accountability, the Commission concluded that eligible schools and libraries should submit a description of the services they seek so that such description may be posted to the Administrator's website to be evaluated by competing service providers. In addition to the need to comply with the requirement that schools and libraries make bona fide requests for services, the Commission concluded that fiscal responsibility required that schools and libraries award contracts for

eligible services pursuant to competitive bidding. Accordingly, the Commission adopted competitive bidding requirements, noting that “[c]ompetitive bidding is the most efficient means for ensuring that eligible schools and libraries are informed about all of the choices available to them.” The Commission found that without competitive bidding, the applicant may not receive the most cost-effective services available, with the result that demand for support would be greater than necessary and less support would be available to support other participants in the program. To promote a fair and open competitive bidding process, the Commission adopted several requirements aimed at ensuring that all prospective bidders could identify the services that schools and libraries seek to receive and that all such bidders would have sufficient time to prepare and submit bids. *Id.*

In order to receive discounts on eligible services, the Commission’s rules require that the applicant submit to the USAC’s Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts. See, 47 C.F.R. § 54.504(b)(1), (b)(3); see also, *Request for Guidance, Sandhill Regional Library System*, DA 02-1463, CC Docket No. 96-45 and 97-21 (2002). Once the applicant has complied with the Commission’s competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator. *Id.*; See, 47 C.F.R. § 54.504(b)(4). The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and only then may it submit the Form 471 requesting support for the services it ordered. See, 47 C.F.R. § 54.504(c); see also, *Request for Review, Brunswick County Schools*, DA 05-1122, CC Docket No. 02-6 (2005).

In the *Sandhill Regional Library* matter cited above, the applicant submitted two completed FCC Forms 470 for posting in Funding Year 2. One of the forms was posted in April 1999, but through no fault of the applicants the other was not posted until June 3rd of that year. The library

system received a Receipt Notification Letter for the first posted Form 470 and, assuming that the second one had already been posted, submitted two Forms 471, both of which relied in part on the yet to be posted Form 470. The USAC Administrator denied the funding requests on the grounds that they failed to meet the 28 day bidding requirement time period. *Id.*

The library system then appealed to USAC requesting that the 28 day competitive bidding requirement be waived. Generally, the Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause. *Id.* The Commission, relying on prior precedents, concluded that a waiver of its rules was warranted. *Id.*

In the case at hand, strict compliance with our rules is inconsistent with the public interest. We find that the substantial delay in posting the second FCC Form 470 was solely attributable to the Administrator. It would be unfair for Sandhill to be denied discounts because of so substantial a posting delay, particularly when this error may have resulted in Sandhill being denied substantial support it otherwise would have received. *Id.*

The public interest test is thus applied in determining the viability of any waiver request. Waiver is only appropriate if special circumstances, that is, good cause, warrants a deviation from the general rule and such deviation will serve the public interest. *See, Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C.Cir. 1990). Significantly, the Commission has concluded that the public interest is served by the effective operation of the schools and libraries universal support service mechanism, which generally requires competitive bidding for all services eligible for support. *Request for Guidance, Sandhill Regional Library System, supra*. The Commission has also concluded that additional factors may be considered when determining whether to grant a waiver:

The Commission may waive any provision of its rules on its own motion and for good cause shown. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity or more effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. Request for Review and/or Waiver, Glendale Unified School District, supra.

The case of the within appellants cries out for application of a waiver. First, the discounted goods and services were delivered and installed during Funding Year 2003 - 2004. They were bought and paid for and the program goal of providing universal access was met.

Second, forcing repayment by the schools and the service provider of the monies already spent will not only create a hardship but will impact adversely on the program goal since a forced reimbursement is likely to drive the remaining schools, each of which maintains a hand-to-mouth existence, onto the brink of bankruptcy — a possibility which surely cuts against any notion of affording universal access to all. Indeed, the reimbursement of USAC based on a clerical error in the Form 470 requires the Commission to carefully balance the public interest in providing discounts for universal service to faith based institutions of learning in inner city environments against substantially penalizing them financially for mere clerical errors. This is exactly the type of “equity” which, in the balance, mandates grant of a one time waiver to the appellants.

Third, there is no hint of any fraud, abuse, or waste related to the 2003 -2004 discounts accorded to the appellants. Indeed, while USAC has indicted them for a “tainted bidding process,” nothing in the record supports such a finding. Rather, the Administrator has chosen to simply adopt sixteen (16) year old language from the Mastermind case, cited above, as grounds for this

conclusion, even though the facts of the case do not support such a finding.

Fourth, the mistake at issue, filling in the contact information on the Forms 470 with an incorrect email address, was not only short lived to begin with, but would have been caught and excused in a timely fashion under recent case rulings by the Commission which has shown itself to be more willing to abide clerical and other ministerial errors in the Forms 470.

As the Fifth Report and Order, *supra*, makes plain, the Commission is vitally interested in ensuring against fraud, waste or abuse infecting the program, while simultaneously assuring the equitable distribution of the universal fund proceeds. Indeed, following issue of the Fifth Report and Order in 2004, USAC vigorously applied its established procedures, including “minimum processing standards,” to facilitate its efficient review of funding applications. *See, In the Matter of Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School New Orleans, LA*, CC Docket No. 02-06, Order, FCC 06-54 (2006) (Bishop Perry Order), a matter in which the Commission heard numerous appeals and requests for waivers from, *inter alia*, USAC decisions related to failures to comply with minimum processing standards.

Consequently, prior to the Bishop Perry Order, when an applicant submitted an FCC Form 470 that omitted information required by the minimum processing standards, USAC automatically returned the application to the applicant without considering it for discounts under the program, without inquiring into the cause of omission and without providing the applicant with the opportunity to cure the error. *See, Bishop Perry Order*. Indeed, reimbursement of previously funded applications are sought in situations where USAC would normally deny a funding request outright upon discovering a particular infirmity in the application review process, because the applicant failed to meet one or more necessary requirements for receipt of support. Fifth Report and

Order.

In its Bishop Perry Order, however, the Commission recognized that a slavish insistence upon perfection in the face of USAC's "minimum processing standards" was affecting the efficiency of the fund and hampering its policy goal of ensuring universal access to telecommunication and related technology. It found that immaterial clerical, ministerial or procedural errors resulted in rejection of requests which were otherwise infused with *bona fide* need. The creation of artificial barriers was seen by the FCC as contrary to its statutory policy goal to "enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms . . . and libraries." 47 U.S.C. § 254.

The FCC also came to grips with the fact that the community with which USAC was dealing was forgivably amateurish when contending with the bureaucratic requirements of the 470 and 471

Forms:

We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts. Even when a school official has learned how to correctly navigate the application process, unexpected illnesses or family emergencies can result in the only official who knows the process being unavailable to complete the application on time. Bishop Perry Order.

With this in mind, the Commission concluded that certain filing and form-filling errors should not create barriers to the benefits of the universal fund:

Importantly, applicants' errors could not have resulted in an advantage for them in the processing of their application. That is, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicant receiving more funding than it was entitled to. In addition, *at this time, there is no evidence of waste, fraud or abuse,*

misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that the denial of funding requests inflicts undue hardship on the applicants. In these cases, we find that the applicants have demonstrated that rigid compliance with the application procedures does not further the purposes of section 254(h) or serve the public interest. Bishop Perry Order. [Emphasis added.]

Thus, in the May 2006 Bishop Perry matter, for the first time the FCC required “USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470.”

Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy these errors. . . . Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 470.

USAC shall apply this directive to all pending applications and appeals even if such applications or appeals are no longer within the filing window. Bishop Perry Order.

In response, USAC has issued a notice to applicants advising them of their right to make corrections on their Forms 470. The relevant parts are extracted below:

USAC’s Important Notice Regarding Correctable Errors on FCC Forms 470 and 471

A. Corrective Action Allowed:

Form 470, Block 1 Items 1 and 3, the Applicant Name and Contact Information:

“As long as there is sufficient contact information on the form to be able to make contact with someone, applicants can provide the missing contact information within 15 days of notification from USAC. This information is required before the form can be posted which starts the 28-day posting requirement.”

B. Errors that can be corrected by amending the Form 470:
Form 470, Block 1 Items 1 and 3, the Applicant Name and Contact Information:

“Applicants will be able to submit corrections to the contact information within 15 days of notification from USAC. Before making the change, the correction will be reviewed to ensure that the change does not circumvent the FCC’s competitive bidding requirements.”

Accordingly, the “rules of the game” changed after the 2003 forms were submitted. More leniency has recently been afforded to school and library applicants. As USAC itself noted, if there is sufficient contact information on the Form 470, missing or erroneous information due to unintentional ministerial and clerical mistakes can be corrected. In the present case, where the error was caught and the email address terminated during the 28 day period, it is clear that the appellants could have corrected the mistake had it occurred post-*Bishop Perry Order*. Under this circumstance alone, it is fundamentally unfair to impose on the schools and the provider the substantial financial liability sought by USAC for reimbursement of the discounts.

Although the events in the present case arose in Funding Year 2003 - 2004, the same policy guidelines should be applied. Each of the appellant school applicants provided sufficient contact information on their Form 470, including school employee names, addresses, phone numbers and fax numbers, where appropriate; the reference to the Future Gen email support address was terminated by the service provider immediately upon learning of the appellants’ gaffes; moreover, for the bulk of the Forms 470 at issue here, this termination was effected within the 15 day period ultimately contemplated by the Commission as a reasonable period of time to correct an unintentional ministerial or clerical mistake.

Given all of the above circumstances, it is respectfully submitted that the Commission must grant a waiver to each of the appellants.

Point IV

USAC'S DENIAL OF THE APPEAL BELOW WAS ARBITRARY, CAPRICIOUS, AND UNREASONABLE

The USAC and Wireline Competition Bureau's denials of appeal must be reversed because they failed to make adequate findings of fact based upon the record that was before them, failed to consider waiver, and failed to satisfy both requirements of Section 557 of the Administrative Procedure Act. See, 5 U.S.C.A. § 557. Section 557 of the Administrative Procedure Act provides: "The record shall show the ruling on each finding, conclusion, or exception presented. All decision[s]...shall include a statement of – (1) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof." See, 5 U.S.C.A. § 557.

Interestingly, USAC's only "finding" was that, "If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and the FCC rules consider this to be tainted." In other words, the steps taken by the provider back in 2003 to terminate the email address, the inquiries received by the schools in response to the posted Forms 470, and the bulk of the contact information which otherwise pointed an interested bidder to the eligible institution, were not considered at all. In lieu of any analysis of the facts of the case, the Administrator incorrectly opted to simply apply the general rule of law without making any findings. This is plain error under the

Federal APA and, at minimum, should lead the Commission to remand the matter to the Administrator for further consideration of the actual facts of the case.

Furthermore, although the appellants requested that the Administrator consider granting a waiver, no ruling is made on this request. This, too, is error mandating remand for further proceedings.

The Bureau, of course, merely echoed the USAC opinion. Perhaps because of their shortcomings in weighing the facts and evidence before them, USAC and the Bureau also erred in their application of the law. Reliance upon Request for Review, MasterMind Internet Services, Inc., supra., is inapposite. In MasterMind, the FCC denied funding (in advance, not nine years after the fact) because the named service provider participated in the bidding process: indeed, one of MasterMind's own employees was named as the *contact person* on the relevant, disallowed Forms 470 — a stark contrast to the Forms 470 at issue in this matter.

In fact, MasterMind admitted that its workforce was also involved in the preparation of the Forms 470, the Applicants having effectively surrendered control of the entire bidding process to the service provider. Nothing in the within case comes within a mile of this level of egregiousness.

To the contrary, the appellants in this matter fall squarely within the portion of the MasterMind appeal which the Commission *granted*, stating:

To the extent that the applications at issue here were denied by SLD in instances that the Applicant did not name a MasterMind employee as the contact person and a MasterMind employee did not sign the associated Forms 470 or 471, we do not believe that there has been a violation of the competitive bidding process. Granting these requests for review, therefore, is not inconsistent with the Commission's rules. Accordingly, we grant the requests for review and remand those applications to SLD for further processing.

Significantly, in no instance, did Future Gen sign any Forms 470 or 471, nor was any Future Gen employee identified as a contact person on the schools' Forms 470. Squarely, then, under this aspect of the MasterMind holding, USAC and the Bureau erred as a matter of law by failing to grant the appellants' appeals from the Commitment Adjustment Letters.

Additionally, in their denial of the appeal below, USAC and the Bureau erroneously extended the holding in MasterMind, to encompass email addresses — treating them as being co-equal with contact names and telephone and fax numbers. But nothing in the 2000 ruling by the Commission even hints at this. Nor, as pointed out above, did the Administrator or the Bureau give any consideration to the prompt termination of the email address during the bidding period. In each instance, this constitutes error below.

Several of the schools joining in this appeal prepared their own equipment and service lists as informal Request for Proposals (RFPs) for the services sought through the Forms 470. These included Our Lady of Good Counsel High School and elementary school, St. Patrick School, Blessed Sacrament, Mother Seton InterParochial, and St. Lucy's School. Accordingly, for these schools, there were independent avenues for third party bidding. Furthermore, in conjunction with the direct vocal inquiries to the Contact Person listed in Block 6, these schools were able to distribute their RFP's to potential 3rd party vendors.

In accord with the purpose of the contact information contained in Block 6, and inapposite to the facts of MasterMind, each of these six schools received verbal inquiries from third party vendors concerning the goods and services being sought. These verbal inquiries were directed to the Contact Person in Block 6 and made by telephone inquiry. Given these inquiries, it simply cannot be said as a matter of mere rote recitation that the bidding processes were "tainted" — the facts

suggest a clerical mistake, an effort to timely fix it, and more than enough counterbalancing contact information to vouchsafe the *bona fides* of the bidding process. “The Form 470 required that the applicant name a person whom prospective service providers may contact for additional information (contact person). The contact person should be able to answer questions regarding the information included on the Form 470 and the services requested by the applicant, including how to obtain a copy of the applicant’s request for proposal (RFP), if the applicant has prepared one.” *Id.* These requirements were met and the Administrator erred in failing to consider them. Unlike MasterMind, the purpose of the contact person was satisfied here.

Similarly, no email inquiry of any sort was ever received in the Future Gen customer support email box, a fact which should have been found below as serving to mitigate any concern about a compromised bidding process. Like soda ash, these two facts — written, albeit informal RFPs followed by verbal bidding inquiries to six of the schools from third party vendors, and the lack of emails — neutralize any hint of acidity in the bidding processes at issue here.

Finally, it cannot be overlooked that as a matter of law, MasterMind contemplates a two-pronged test to which the Administrator failed to adhere. Without addressing a reimbursement claim such as here, MasterMind holds that “denial is appropriate in any instance in which the service provider is [1] listed as the contact person *and* [2] participates in the bidding process.” *Id.* at ¶13. (emphasis and enumeration added). This is a two prong, conjunctive test which cannot be applied to the present case since the service provider, Future Gen, was neither identified as the contact person nor did it participate in the bidding process—let alone to the extent by which the MasterMind organization usurped and controlled the competition. Accordingly, it is error to rely, as the Bureau and Administrator did, solely upon MasterMind to ascribe a “taint” to the bidding involving the

within appellants. The MasterMind holding must be found inapplicable to this appeal and this appeal must be granted.

Further, if findings of fact were actually made, they would have to take into consideration a myriad of facts supporting the appeal. For example, although BearingPoint performed technological audits of some of the schools, there was no finding of financial fraud, abuse or mistake; rather, USAC's denial of the appeal below is premised solely upon an unintentional error that has been explained and pans out as merely the product of a certain technological naivete — just what one might expect from the school administrators discussed by the FCC in the Bishop Perry matter and by the Bureau in its Queen of Peace Order as being less likely to be comfortable dealing with technological issues and with unforgiving bureaucratic forms.

What should be found, however, is that beginning with the 2003 school year, the students of each of the schools appealing in this matter benefitted from the implementation of the Forms 470 and 471. The schools involved are entirely based in New Jersey's urban areas, including Newark, East Orange and Jersey City. These schools needed and required the aid made available to them under the Universal Fund, received the aid, implemented its intent and are now being pressed to the wall to make a reimbursement. The equities of the circumstances here present weigh against this.

Similarly, Future Gen, too, acted in good faith. It provided the goods and services contracted for under the Forms 470 and 471, delivering value for money back in 2003. It is utterly inequitable to expect it to now regurgitate the full contract price (as is the plain intent of the numbers set forth in the Notifications of Commitment Adjustment Letters) based on others' naive but otherwise harmless mistakes ---- and particularly so given that Future Gen sought to immediately ameliorate the problem by terminating the e-mailbox. The end result of such a process is likely to be Future

Gen's dissolution, something which will ultimately undercut the USAC's goal of competition by removing a provider in a geographic area where it has gained expertise, experience and a glowing reputation.

Moreover, there is no better example of the appellants' innocence, naivete, and good faith, than that they literally left nearly \$310,000 "on the table," declining to implement and seek disbursement for projects to which USAC had already committed. This fact alone belies any intimation that the Block 6 identification error on the Form 470's was in any sense a product of fraud or waste.

CONCLUSION

Based on the foregoing analysis of the facts and discussion of pertinent law, the parties' appeals must be granted in all respects or a rules waiver must be put into place for their benefit.

Respectfully submitted,



RAYMOND BARTO

pc: Future Generation, Inc.
Bruce E. Chase, Esq.
Francis E. Schiller, Esq.
Above Named Operating Schools

EXHIBIT

A



80 South Jefferson Road
Whippany, New Jersey 07981
Fax: 973-599-6582

Universal Service Administrative Company
Schools & Libraries

FAX TRANSMISSION COVER SHEET

To: Sr. Janet Roddy
Fax: 12014892981
Subject: E-Rate Application #454997 (Holy Trinity Elementary School)
From: ProgCompliance2
Date: June 21, 2006
Time: 12:25:01 PM

YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT
RECEIVE ALL THE PAGES, PLEASE CALL THE CONTACT SPECIFIED BELOW.

Sr. Roddy,

I am writing from the Program Compliance Department of Schools & Libraries with a question regarding the above
Funding Year 2003 application. Please respond to the following:

Please explain why an email address associated with service provider Future Generation appears in Block 6 of the
cited Form 470 # 226380000440190. (sid@futuregeninc.com)

Please fax your response to me at the number below.

If you have any questions, please call me.

Thank you.

Sincerely,

Privilege and Confidentiality Notice

The information in this telecopy is intended for the named recipients only. It may contain information that is privileged, confidential or
otherwise protected from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying,
distribution, or the taking of any action in reliance on the contents of this telecopied material is strictly prohibited. If you have received
the telecopy in error, please notify us by telephone immediately and mail the original to us at the above address. Thank you.

JUN-22-2006 04:34A FROM: HOLY TRINITY SCHOOL (201)489 2981 TO: 2012656411 P.3
6/21/2006 12:25 PM EST TO: DR. JANET ROBBY 973-581-5115 SOLIX FAX 973-581-6582 4-VA

2

Kelly Miller

Program Compliance

Schools & Libraries Division.

973-581-5115 (phone)

973-581-6582 (fax)

kmiller@solixinc.com

EXHIBIT

B



Universal Service Administrative Company
Schools & Libraries Division

Notification of Commitment Adjustment Letter
Funding Year 2003: 7/01/2003 - 6/30/2004

July 18, 2006

Howard Gerber
Future Generation, Inc.
190 Wortendyke
Emerson, NJ 07630 4501

Re: SPIN: 143007891
Form 471 Application Number: 357557
Funding Year: 2003
FCC Registration Number
Applicant Name: HOLY TRINITY ELEMENTARY SCHOOL
Billed Entity Number: 7671
Applicant Contact Person: SR. JANET RODDY

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the adjustments to the funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and the FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125- Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals option.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the applicant detailing the necessary applicant action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or the applicant submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: SR. JANET RODDY
HOLY TRINITY ELEMENTARY SCHOOL

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on Form 471.

SERVICES ORDERED: The type of service ordered by applicant, as shown on Form 471.

BILLING ACCOUNT NUMBER: The account number that you have established with your customer for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been disbursed for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM SERVICE PROVIDER: This represents the amount of improperly disbursed funds to date for which the service provider has been determined to be primarily responsible. These improperly disbursed funds will have to be recovered from the service provider.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report
Form 471 Application Number: 357557**

Funding Request Number:	964893
Contract Number:	SLD-956
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$7,904.00
Commitment Adjustment Amount:	\$7,904.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$7,904.00
Funds to be Recovered from Service Provider:	\$7,904.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

Funding Request Number:	964905
Contract Number:	SLD-957
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$9,192.00
Commitment Adjustment Amount:	\$9,192.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$9,192.00
Funds to be Recovered from Service Provider:	\$9,192.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	964916
Contract Number:	SLD-958
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$22,153.84
Commitment Adjustment Amount:	\$22,153.84
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$22,153.84
Funds to be Recovered from Service Provider:	\$22,153.84
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	964926
Contract Number:	SLD-959
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$19,200.00
Commitment Adjustment Amount:	\$19,200.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$19,200.00
Funds to be Recovered from Service Provider:	\$19,200.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965099
Contract Number:	SLD-960
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$34,368.00
Commitment Adjustment Amount:	\$34,368.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$34,368.00
Funds to be Recovered from Service Provider:	\$34,368.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965110
Contract Number:	SLD-961
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$3,829.50
Commitment Adjustment Amount:	\$3,829.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$3,829.50
Funds to be Recovered from Service Provider:	\$3,829.50
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965114
Contract Number:	SLD-962
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$2,656.00
Commitment Adjustment Amount:	\$2,656.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,656.00
Funds to be Recovered from Service Provider:	\$2,656.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965128
Contract Number:	SLD-963
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$2,768.00
Commitment Adjustment Amount:	\$2,768.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,768.00
Funds to be Recovered from Service Provider:	\$2,768.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965138
Contract Number:	SLD-964
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$7,920.00
Commitment Adjustment Amount:	\$7,920.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$7,920.00
Funds to be Recovered from Service Provider:	\$7,920.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
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Funding Request Number:	965150
Contract Number:	S;D-965
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$4,857.52
Commitment Adjustment Amount:	\$4,857.52
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$4,857.52
Funds to be Recovered from Service Provider:	\$4,857.52
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965174
Contract Number:	SLD-967
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	N/A
Original Funding Commitment:	\$800.00
Commitment Adjustment Amount:	\$800.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$800.00
Funds to be Recovered from Service Provider:	\$800.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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EXHIBIT

C

KAPS & BARTO
ATTORNEYS AT LAW

15 WARREN STREET
HACKENSACK, NEW JERSEY 07601

(201) 489-5277

WARREN J. KAPS * >
RAYMOND BARTO
CONCETTA R. DELUCIA

FAX (201) 489-0477
EMAIL: kapsbarto@msn.com
Raymond.barto@hotmail.com
WEBSITE: www.kapsbarto.com

MICCI WEISS

FILE NO: 1967.01

* CERTIFIED BY THE SUPREME COURT OF NEW JERSEY
AS A CIVIL TRIAL ATTORNEY
> ADMITTED IN N.J. AND N.Y.

September 6, 2006

BY FEDERAL EXPRESS

Letter of Appeal
Universal Service Administrative Company
Schools & Libraries Division
Dept. 125-Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

Dear Sirs:

Re: Appeals from Commitment Adjustments

Please be advised that this office has been retained by Future Generation, Inc. (Future), the service provider implicated in a series of Commitment Adjustment Letters forwarded by your office to various schools. We are appearing as counsel for Future and on behalf of the implicated schools which are still operational; namely, Our Lady Help of Christians, Blessed Sacrament, Holy Trinity, St. Mary's High School, and St. Patrick School into which Assumption-All Saints has merged. Accordingly, on behalf of these schools and of Future, this constitutes **ACTUAL NOTICE** that an **APPEAL** is herewith filed for each and every commitment adjustment set forth in the tables which follow. Future, of course, has been served with Notifications of Commitment Adjustment Letters related to its dealings with each of the institutions discussed herein, including Our Lady of Good Counsel schools and St. Lucy's School, which are no longer operating.

Contact Person: For Future and each of the following, I am the person with whom you can most readily discuss these appeals. I am an attorney at law and my name is Raymond Barto. My address, telephone number, and fax number are set forth above. My preferred email address is

Raymondbarto@hotmail.com. My signature on this appeal is authorized by Future and each of the operating institutions discussed in the tables which follow.

SCOPE OF THE APPEAL: ADJUSTMENTS OF FUNDING REQUESTS

Our Lady Help of Christians School -2003			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	965603	965670	965732
	965611	965685	965747
	965626	965699	965774
	965656	965713	965791
			965814
Billed Entity Name:	Our Lady Help of Christians School		
FCC Registration Number from Letter:	12005054		
Billed entity number:	6575		
Form 471 Application Number:	357752		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Assumption-All Saints School - 2003: MERGED INTO ST. PATRICK			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	964519	964560	964603
	964526	964570	964615
	964534	964580	964623
	964553	964593	964633
			964662
Billed Entity Name:	Assumption-All Saints School		
FCC Registration Number from Letter:	12004859		
Billed entity number:	7348.		

Assumption-All Saints School - 2003: MERGED INTO ST. PATRICK	
Form 471 Application Number:	357472
SPIN Name / Number:	Future Generation, Inc. / 143007891

Blessed Sacrament School - 2003			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	967162	967194	967238
	967168	967201	967264
	967175	967208	967278
	967181	967228	967295
			967306
Billed Entity Name:	Blessed Sacrament School		
FCC Registration Number from Letter:	12004883		
Billed entity number:	7167		
Form 471 Application Number:	358234		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Holy Trinity Elementary School - 2003			
Notice of Commitment Adjustment Letter:	July 18, 2006		
Funding Request Numbers:	964893	965099	965138
	964905	965110	965150
	964916	965114	965160
	964926	965128	965174
Billed Entity Name:	Holy Trinity Elementary School		
FCC Registration Number from Letter:	12004941		
Billed entity number:	7167		

Holy Trinity Elementary School - 2003	
Form 471 Application Number:	357557
SPIN Name / Number:	Future Generation, Inc. / 143007891

St. Mary's High School - 2003			
Notice of Commitment Adjustment Letter:	July 20, 2006		
Funding Request Numbers:	970477	970486	970468
	970480	970487	970471
	970481	970490	970474
	970483	970491	
Billed Entity Name:	St. Mary High School		
FCC Registration Number from Letter:	12005294		
Billed entity number:	7317		
Form 471 Application Number:	359171		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Our Lady of Good Counsel Schools - 2003: NO LONGER OPERATING			
Notice of Commitment Adjustment Letter:	July 20, 2006 (to Ania Jarmulowicz)		
Funding Request Numbers:	967480	967510	967555
	967488	967520	967568
	967500	967532	967585
Billed Entity Name:	Our Lady of Good Counsel Schools		
FCC Registration Number from Letter:	12005096		
Billed entity number:	7119		
Form 471 Application Number:	358346		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Our Lady of Good Counsel Elementary School - 2003: NO LONGER OPERATING			
Notice of Commitment Adjustment Letter:	July 20, 2006 (to Pat McGrath)		
Funding Request Numbers:	970667. 970670 970672	970674 970676	970678 970680
Billed Entity Name:	Our Lady of Good Counsel Elementary Schools		
FCC Registration Number from Letter:	None on letter		
Billed entity number:	7118		
Form 471 Application Number:	359187		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Mother Seton Parochial School - 2003			
Notice of Commitment Adjustment Letter:	July 18, 2006		
Funding Request Numbers:	965254 965264 965279 965283	965302 965316 965330 965358	965372 965387 965407 965426 965459
Billed Entity Name:	Mother Seton Parochial School		
FCC Registration Number from Letter:	12004875		
Billed entity number:	7011		
Form 471 Application Number:	357662		

Mother Seton Parochial School - 2003	
SPIN Name / Number:	Future Generation, Inc. / 143007891

St. Patrick School - 2003			
Notice of Commitment Adjustment Letter:	July 19, 2006		
Funding Request Numbers:	966985	967026	967053
	966986	967030	967057
	966990	967039	967062
	967000	967045	966978
	96701	967049	966980
			966983
Billed Entity Name:	St. Patrick School		
FCC Registration Number from Letter:	12005310		
Billed entity number:	7341		
Form 471 Application Number:	358142		
SPIN Name / Number:	Future Generation, Inc. / 143007891		

Saint Lucy's School - 2003: NO LONGER OPERATING			
Notice of Commitment Adjustment Letter:	August 4, 2006		
Funding Request Numbers:	970547	970561	970575
	970549	970566	970576
	970553	970569	
	970556	970572	
Billed Entity Name:	Saint Lucy's School		
FCC Registration Number from Letter:	12005260		
Billed entity number:	7111		

Saint Lucy's School - 2003: NO LONGER OPERATING	
Form 471 Application Number:	359178
SPIN Name / Number:	Future Generation, Inc. / 143007891

With respect to each operating institution named above, this appeal specifically embraces any and all Funding Requests, including but not limited to those which may not have been included in the above listings either due to mistake, inadvertence or a lack of adequate notice that a Funding Request Number is being challenged by USAC.

Future, SPIN 143007891, likewise appeals each and every one of the above Notifications of Commitment Adjustment Letters, including for the non-operating schools. The substance of each USAC Notification of Commitment Adjustment is reiterated in "tandem" versions of the letters sent directly to Future and addressed to one of its principals, Mr. Howard Gerber. Thus, in each instance, the USAC notices of commitment adjustment essentially demand recovery from both the affected school and the service provider, Future Generation, Inc. Therefore, Future's appeal should be construed as representing each and every one of the Funding Request Numbers tracked above for each of the institutions as well as any and all other relevant USAC-challenged Funding Request Numbers which may not appear above through inadvertence, mistake or want of good and adequate notice.

NATURE OF THE APPEAL

A. Discussion of the Facts

The facts of each school's appeal and of Future's appeal are largely identical. Future is a service provider engaged in the business of providing computer, telecommunications and networking services to various schools and libraries throughout the State of New Jersey. Its services include system and software sales, technical and network administration services, complete networking services (copper, fiber optic, and wireless), comprehensive maintenance and support, as well as training. Future has been engaged as a service provider to K - 12 educational organizations in the E-rate program since 1998.

In each instance, the Commitment Adjustment Letters outlined above, relate that each institution's 2003, FCC Form 470, at Block 6, not only employs an incorrect email address for the applicant but, in fact, references Future's school services help line address, sld@futuregeninc.com. Based on this, USAC has sought to rescind the myriad Funding Requests cited in the tables above, reasoning that any applicant's Form 470 reference to a Future email address would taint the competitive bidding process mandated by FCC.

When asked by USAC to explain the email reference, the schools' replies varied but their recurring theme was that an inadvertent mistake had been made. On July 3, 2006, by fax memorandum, Ms. McErlaine of Mother Seton Interparochial School advised Kelly Miller of USAC:

The e-mail address in question . . . was actually entered as a technical contract [sic] address we use to communicate with Future Generation. This address was set up as an additional means of contacting our support company with any questions we need answered during the application process with regard to our exciting network environment. Since the entire e-rate process relates to technology and equipment, I thought it best to include a technical contact in this block. I did not fully understand that this needed to be an address associated with the school itself, and not one of the service provider. *See Exhibit A appended hereto, fax memorandum, July 3, 2006, McErlaine to Miller.*

Ania Jarmulowicz, the Vice Principal of Our Lady of Good Counsel Schools, discussed the error in her June 27, 2006 communication to Ms. Miller:

The reason why the email address belonging to Future Generation was entered on our application is simply due to a misunderstanding of its purpose, and miscommunication between Future Generation and us.

Future Generation offers technical support and maintenance for Our Lady of Good Counsel Schools. Assuming the technical questions would arise regarding our present network configuration, and that Future Generation would be equipped to answer such questions, we requested that Future Generation provide us with a contact email address for this purpose. They created a separate address for this technical purpose, and provided it to us. Once again, they and we thought it was for technical questions regarding our existing network, not for questions relating to future bids. We placed this address in Block 6 for this purpose.

We failed to understand that this e-mail address could be used in relation to the bidding process, which was not our intention. We truly misunderstood the purpose of this e-mail address, and its use in this block. *See Exhibit B appended hereto, June 27, 2006 fax memorandum, Jarmulowicz to Miller.*

St. Patrick's School in Jersey City provided a similar explanation:

Please be advised that the following email address, sld@futuregeninc.com was used in error. In checking back through my files, I see that the application process for the 2003 funding year was started around the same time that Future Generation had created a "technical support" email address for their clients use. This was meant as a means of communication to answer any questions during the application process regarding our existing infrastructure, which they maintain. Having not given it much thought, I simply put a technical contact email address in the application instead of my St. Patrick email address. *See Exhibit C appended hereto, fax from Pat West of St. Patrick School to Kelly Miller.*

The same was true of St. Mary High School. On July 7, 2006, Ms. Beatriz Esteban wrote to Ms. Miller:

I inadvertently used an e-mail address that is assigned to us for technical support. Knowing most of the application process pertains to hardware/software and technology in general, Future Generation set up an e-mail address for their clients to ask any technical questions in relation to their existing network which may arise during the e-rate filing process. I thought it best to have any correspondence between the SLD and us go to this specific e-mail account. Understanding the importance of timely response to the SLD, I chose to use this e-mail address so as not to overlook any important requests made during the application process. Unfortunately, I did not realize at the time that this e-mail address was designed for use between us and our technical support company to explain questions we may have about our network so that we could better understand and answer any questions the SLD may ask. . . . *See Exhibit D appended hereto, letter, July 7, 2006, Beatriz Esteban to Kelly Miller.*

A new principal, Alice M. Terrell of Blessed Sacrament School, had no personal knowledge of any employment of the Future tech support email address on the Form 470 for 2003, but learned from her staff

. . . that this was an e-mail address set up by Future Generation (our support company at the time) to communicate questions back and

forth pertaining to our network environment at that time and to better understand any questions asked of us from the SLD communicating directly with Future Generation. *See Exhibit E appended hereto, July 19, 2006 letter, Terrell to Miller.*

This, of course, corroborates exactly what the other school officials have said, namely, that the email address was a technical services help and support portal for Future.

Sister Janet Roddy, the principal of Holy Trinity School, also corroborates:

Please accept my apologies in the confusion of entering an e-mail address belonging to Future Generation as a means of contact. I seem to recall having many issues with my personal e-mail address at the time the 470 application process started, and was hesitant to provide that e-mail as a means of contact. Therefore, I supplied an e-mail address set up by Future Generation for technical support between us and them to answer questions regarding our existing infrastructure which they have maintained for us on an as-needed basis.

Please note that the e-mail address on my application, sld@futuregeninc.com is no longer in existence. *See Exhibit F appended hereto, June 30, 2006 letter, Sister Janet to Miller.*

On July 19, 2006, Future's operational director wrote to Ms. Miller clarified that the email address was essentially a customer support portal:

. . . Several less technical clients inquired with us about the technicalities and limitations of their present environment at that time, and stated they required timely responses due to the nature of the E-Rate process, and needed to determine their additional requirements prior to filing their 470 forms. As their questions were numerous and consistent for a period, we created a separate email address (sld@futuregeninc.com). The purpose of this address was for schools to ask technical questions relating to their present environment. Also, this "specific" e-mail box would be treated as time sensitive by our staff, so as to comply with our clients' requests for a quick response . . . The segregated mailbox allowed for the prioritization that the schools requested. This was meant to be a means of communication between our clients and us for questions

about their present environment, such as the capacity of their network, servers, bandwidth, hard drive space, speed / usage limitations, etc. It was NOT meant to be a means for the SLD, or potential vendors, to communicate with Future Generation, or the applicants. *See Exhibit G appended hereto, July 19, 2006 fax memorandum, Gerber to Miller.*

Gerber also explained what his investigation disclosed concerning the use of the email address by the schools in their Forms 470:

Unfortunately, when asked for an e-mail address in their Form 470 application, they innocently thought they should put the e-mail address set up at Future Generation for technical support. Since a majority of the funding requests pertain to hardware and software, they assumed that any technical questions the SLD had in relation to these items would best be answered by us. They misunderstood our purpose of setting up this additional means of communication, and the purpose of the Block 6 request. They also overlooked the fact that service providers are not allowed to be involved on the applicant's behalf. *See Exhibit G appended hereto, July 19, 2006 fax memorandum, Gerber to Miller.*

Significantly, though, once Future learned of the school's Block 6 gaffe, it instantly understood the import for the bidding process and immediately shut down the email support address. Gerber told Miller that

When it came to our attention through some of these schools that they had listed this e-mail address on the application, we immediately terminated the mailbox to eliminate any involvement with their application. We are aware of the rules and regulations the FCC sets forth and would not jeopardize our client's funding by personally getting involved or influencing them in any way. *See Exhibit G appended hereto, July 19, 2006 fax memorandum, Gerber to Miller.*

Finally, and of equal significance, Gerber advised Miller, "As the e-mail address was terminated immediately upon our awareness of its use, no correspondence was received through this address." (Emphasis added to original.) *See Exhibit G appended hereto, July 19, 2006 fax memorandum, Gerber to Miller.* Ms. Jarmulowicz, the Vice Principal of Our Lady of Good Counsel Schools, likewise told Ms. Miller:

... after Future Generation learned that this e-mail address was sited in our application, they shut the address down to avoid any conflict of interest between a service provider and applicant. This was early in our E-Rate experiences. With the submission of each application, we gain a better understanding of what is actually being requested and hope to avoid supplying any incorrect information on future application [sic]. We apologize for this error, but caught it very early and prevented any conflict whatsoever, as Future Generation had no communication on our behalf. *See Exhibit B appended hereto, June 27, 2006 fax memorandum, Jarmulowicz to Miller.*

As set forth in the accompanying affidavit of Howard Gerber, Future's best estimation of the creation of the email address in question is November 28, 2003, which is three or so days before the filing dates of the first relevant Form 470 submitted to USAC. The schools' email designation error was discovered by Future on or about December 18, 2003, the date when the email box was immediately terminated by the company. This means that the email address was only "in play" as part of the Forms 470 problem from December 1st through December 18th.

Significantly, this means that each Form 470 posted on and after December 18th would have been wholly effective and without any bidding "taint."

Based on Future's review of the records provided by USAC and some of the schools, the last submissions made before the termination of the address were by Our Lady of Good Counsel High School and Elementary School. Although the SLD has characterized the ensuing competitive bidding as tainted, the fact that the email box was closed by Future within 18 days of the first posted Form 470, and that no service provider queries were received in it, underscore that this email identification error proved not only innocuous but entirely moot.

A final factor which negates the import of the schools' unintentional address error is that several of the schools joining in this appeal prepared their own equipment and service lists as informal Request for Proposals (RFPs) for the services sought through the Forms 470. These included Our Lady of Good Counsel High School and elementary school, St. Patrick School, Blessed Sacrament, Mother Seton InterParochial, and St. Lucy's School. Accordingly, for these schools there were independent avenues for third party bidding, mitigating any "taint" that might be attributable to the email box gaffe.

Indeed, this argument is not merely academic: as set forth in Mr. Gerber's affidavit, each of these six schools received verbal inquiries from third party vendors concerning the goods and services being sought. Plainly, (even) in the face of the email posting error, as one would expect of

an expert in the field, other service providers recognized Future's email address and contacted the schools directly. Given these inquiries, it simply cannot be said that their bidding processes were "tainted." To the contrary, insofar as inquiries were fielded, they can only be termed successful.

Finally, in each instance, the services ordered by the Forms 470 were delivered, installed and maintained as required by the agreements between the appellant schools and the appellant service provider, Future.¹ There has been no allegation, nor can there be, of fraud, abuse, or waste, and each school applicant continues to maintain its relationship with Future. In turn, Future continues to support and maintain each school's computer networks, etc.²

The enormity of the amounts involved in this matter, and the hardships the proposed adjustments will create, should not be overlooked. The following table identifies the "amounts in play":

Total Original Funding Commitment to Appellants from USAC	\$1,040,772.85
Amount of Adjustment Demanded	\$1,040,772.85
Funds Actually Disbursed to Date to Appellants	\$731,026.83
Funds Which USAC Seeks to Recover	\$731,026.83

In the case of the schools, even setting aside USAC commitments which were never funded, the amounts sought to be recovered are as follows:

Affected School	Funds Disbursed and For Which Recovery is Sought
Assumption - All Saints	\$63,627.82
Blessed Sacrament	\$76,948.59
Holy Trinity	\$114,848.86

¹ Three schools, Our Lady of Good Counsel High School and elementary school, and Holy Trinity School, have been subject to USAC's BearingPoint technology audits. Another school, Mother Seton Parochial, has an audit scheduled. In no instance has BearingPoint alleged that any Future contract for goods or services been breached or that the service provider has otherwise failed to deliver as promised.

² With the qualified exception of Assumption - All Saints school, which has just merged into another Future client and appellant herein, St. Patrick School.

Affected School	Funds Disbursed and For Which Recovery is Sought
Mother Seton Interparochial	\$49,810.95
Our Lady of Good Counsel Elem.	\$84,834.79
Our Lady of Good Counsel H.S.	\$46,747.02
Our Lady Help of Christians	\$71,385.55
St. Lucy's	\$42,992.40
St. Mary's H.S.	\$95,256.68
St. Patrick	\$84,574.17
TOTAL:	\$731,026.83

As the chart shows, each of the amounts at issue are not small by urban-center, parochial school standards where teacher salaries often start well below the amounts paid in the public sector.

While adjustment (and loss) of the undisbursed commitments, another \$309,746.02, will not affect the schools or Future, it is important for USAC to note that the appellants, in the relevant year, actually turned away \$309,746.02 in approved funding, an action which would surely be at odds with any intent, plan or conspiracy aimed at achieving fraud or abuse of USAC funding. To the contrary, in this case, work related to these undisbursed commitments were deemed excessive, unnecessary or redundant by Future, in conjunction and consultation with the relevant school, when the time arrived for performance.

B. The Relevant Law and Appellants' Arguments

The USAC is the not-for-profit corporation responsible for administering the Universal Service Fund and the four federal universal service programs, one of which is Schools and Libraries. The schools and libraries support mechanism, also known as the E-rate program, is administered under FCC oversight. *See generally, Fifth Report and Order, CC Docket No. 02-6 (FCC 2004).* Under the program, eligible schools may receive discounts for certain telecommunications services, voice mail, Internet access and internal connections. *See, 47 CFR §§ 54.502, 54.503.* Before applying for discounted services, the eligible applicant must first develop a technology plan to ensure that any services it purchases will be effectively used. The applicant must then submit a completed FCC Form 470, which will identify the applicant and the services it desires to obtain. *Fifth Report and Order, supra.*

Thereafter, the applicant must comply with the FCC's competitive bidding requirements —

which do not require the use of RFPs — and, after obtaining the lowest responsible bid, enter into pertinent agreements with service providers and file FCC Form 471, which notifies the USAC of the services ordered, the provider hired, and an estimate of the funds needed to cover the discounts available for the services. *Id.* Then, depending on factors not relevant to the instant appeals, funding will issue from USAC to pay the provider's bills in whole or part. *Id.*

As the *Fifth Report and Order* makes plain, the FCC is vitally interested in ensuring against fraud, waste or abuse infecting the program, while simultaneously ensuring the equitable distribution of the universal fund proceeds. Indeed, following issue of the *Fifth Report and Order* in 2004, USAC vigorously applied its established procedures, including "minimum processing standards," to facilitate its efficient review of funding applications. See, *In the Matter of Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School New Orleans, LA*, CC Docket No. 02-06, Order, FCC 06-54 (2006) (Bishop Perry Order), a matter in which the FCC heard numerous appeals and requests for waivers from, *inter alia*, USAC decisions related to failures to comply with minimum processing standards.

Consequently, prior to the Bishop Perry Order, when an applicant submitted an FCC Form 470 that omitted information required by the minimum processing standards, USAC automatically returned the application to the applicant without considering it for discounts under the program, without inquiring into the cause of omission and without providing the applicant with the opportunity to cure the error. See, *Bishop Perry Order*. Indeed, reimbursement of previously funded applications are sought in situations where USAC would normally deny a funding request outright upon discovering a particular infirmity in the application review process, because the applicant failed to meet one or more necessary requirements for receipt of support. *Fifth Report and Order*.

In its *Bishop Perry Order*, however, the FCC recognized that a slavish insistence upon perfection in the face of USAC's "minimum processing standards" was affecting the efficiency of the fund and hampering its policy goal of ensuring universal access to telecommunication and related technology. It found that immaterial clerical, ministerial or procedural errors resulted in rejection of requests which were otherwise infused with *bona fide* need. The creation of artificial barriers was seen by the FCC as contrary to its statutory policy goal to "enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms . . . and libraries." 47 U.S.C. § 254.

The FCC also came to grips with the fact that the community with which USAC was dealing was forgivably amateurish when contending with the bureaucratic requirements of the 470 and 471 Forms:

We note that the primary jobs of most of the people filling out these

forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts. Even when a school official has learned how to correctly navigate the application process, unexpected illnesses or family emergencies can result in the only official who knows the process being unavailable to complete the application on time. Bishop Perry Order.

With this in mind, the Commission concluded that certain filing and form-filing errors should not create barriers to the benefits of the universal fund:

Importantly, applicants' errors could not have resulted in an advantage for them in the processing of their application. That is, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicant receiving more funding than it was entitled to. In addition, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that the denial of funding requests inflicts undue hardship on the applicants. In these cases, we find that the applicants have demonstrated that rigid compliance with the application procedures does not further the purposes of section 254(h) or serve the public interest. Bishop Perry Order.

Thus, in the May 2006 Bishop Perry matter, for the first time the FCC required "USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470."

Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy these errors. . . . Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 470.

USAC shall apply this directive to all pending applications and appeals even if such applications or appeals are no longer within the filing window. Bishop Perry Order.

In response, USAC has issued a notice to applicants advising them of their right to make

corrections on their Forms 470. The relevant parts are extracted below:

USAC's Important Notice Regarding Correctable Errors on FCC Forms 470 and 471

A. Corrective Action Allowed:

Form 470, Block 1 Items 1 and 3, the Applicant Name and Contact Information:

"As long as there is sufficient contact information on the form to be able to make contact with someone, applicants can provide the missing contact information within 15 days of notification from USAC. This information is required before the form can be posted which starts the 28-day posting requirement."

B. Errors that can be corrected by amending the Form 470:

Form 470, Block 1 Items 1 and 3, the Applicant Name and Contact Information:

"Applicants will be able to submit corrections to the contact information within 15 days of notification from USAC. Before making the change, the correction will be reviewed to ensure that the change does not circumvent the FCC's competitive bidding requirements."

Accordingly, the "rules of the game" have changed in the last several months and more leniency is afforded to school and library applicants. As USAC itself notes, if there is sufficient contact information on the Form 470, missing or erroneous information due to unintentional ministerial and clerical mistakes can be corrected.

Although the events in the present case arose in 2002, the same policy guidelines must control. Each of the appellant school applicants provided sufficient contact information on their Form 470; the reference to the Future email support address was terminated by the service provider immediately upon learning of the appellants' gaffe; moreover, for the bulk of the Forms 470, this termination was effected within the 15 day period ultimately contemplated by the FCC as a reasonable period of time to correct an unintentional ministerial or clerical mistake.

Nor can it be asserted that the bidding competition was "tainted" or corrupted. First, no mail inquiry of any sort was ever received in the email box, a fact which serves to mitigate any concern about a compromised bidding process. Moreover, various of the other schools went beyond the requirements of USAC by issuing their own informal RFPs. Schools providing an such informal

RFPs were St. Patrick School, Assumption - All Saints School, Our Lady of Good Counsel High School, and Our Lady of Good Counsel Elementary School. Each of these schools received verbal inquiries from potential, third party vendors, as did St. Lucy's School and Our Lady Help of Christians, both of which could only have been contacted as a result of their Forms 470 postings. Like soda ash, these two facts — written, albeit informal RFPs and bidding inquiries to six of the schools from third party vendors — neutralize any hint of acidity in the bidding processes at issue here.

Although BearingPoint has performed technological audits of some of the schools, there has been no finding of financial fraud, abuse or mistake; rather, USAC's initial decision is premised solely upon an unintentional error that has been explained and pans out as merely the product of a certain technological naivete — just what one might expect from the school administrators discussed by the FCC in the *Bishop Perry* matter as being less likely to be comfortable dealing with technological issues and with unforgiving bureaucratic forms.

What should be found, however, is that since the 2003 school year, the students of each of the schools appealing in this matter, have benefitted from the implementation of the Forms 470 and 471. The schools involved are entirely based in New Jersey's urban areas, including Newark, East Orange and Jersey City. These schools needed and required the aid made available to them under the Universal Fund, received the aid, implemented its intent and are now being pressed to the wall to make a reimbursement. The equities of the circumstances here present weigh against this.

Finally, it should not be overlooked that issuance of a demand letter to the appellant schools and to Future, for contracts which were executed in 2003, will cause great hardship for all involved. After all, the schools are non-profit institutions which acted in good faith in making their 470 applications and in facilitating the agreements entered into with Future. As non-profit institutions already hard-pressed to make ends meet, they cannot afford to rebate the disbursed amount of USAC monies, \$731,026.83, spent years ago, to the Universal Fund.

Similarly, Future, too, acted in good faith. It provided the goods and services contracted for under the Forms 470 and 471, delivering value for money back in 2003. It is utterly inequitable to expect it to now regurgitate the full contract price (as is the plain intent of the numbers set forth in the Notifications of Commitment Adjustment Letters) based on others' naive but otherwise harmless mistakes ---- and particularly so given that Future sought to immediately ameliorate the problem by terminating the e-mailbox. The end result of such a process is likely to be Future's dissolution, something which will ultimately undercut the USAC's goal of competition by removing a provider in a geographic area where it has gained expertise, experience and a glowing reputation.

Moreover, there is no better example of the appellants' innocence, naivete, and good faith, than that they literally left nearly \$310,000 "on the table," declining to implement and seek disbursement for projects to which USAC had already committed. This fact alone belies any intimation that the Block 6 identification error on the Form 470's was in any sense a product of fraud or waste.

The circumstances of this case cry out for a grant of this appeal or of a waiver. As it noted in *Bishop Perry*:

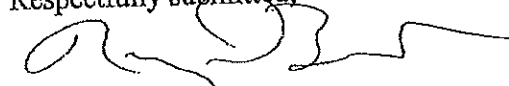
The Commission may waive any provision of its rules . . . for good cause shown. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.

As argued above, the equities warrant relief for the appellants in this matter.

CONCLUSION

Based on the foregoing analysis of the facts and discussion of pertinent law, the parties' appeals must be granted in all respects or a rules waiver must be put into place for their benefit.

Respectfully submitted,



RAYMOND BARTO

pc: Future Generation, Inc.
Bruce E. Chase, Esq.
Francis E. Schiller, Esq.
Above Named Operating Schools

EXHIBIT

D



Schools & Libraries Division

Demand Payment Letter
Funding Year 2003: 7/01/2003 - 6/30/2004

September 18, 2006

SR. JANET RODDY
HOLY TRINITY ELEMENTARY SCHOOL
43 MAPLE AVE
HACKENSACK, NJ 07601 4501

Re: Form 471 Application Number: 357557
Funding Year: 2003
Applicant's Form Identifier: 7671YR6W
Billed Entity Number: 7671
FCC Registration Number: 0012004941
SPIN Name: Future Generation, Inc.
Service Provider Contact Person: Howard Gerber

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the

debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, IL 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete program information is posted to the SLD section of the USAC web site at www.universalservice.org/sl/. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: Howard Gerber
Future Generation, Inc.

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

Funding Commitment Adjustment Report
Form 471 Application Number: 357557

Funding Request Number:	964893
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-956
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$7,904.00
Commitment Adjustment Amount:	\$7,904.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$7,904.00
Funds to be Recovered from Applicant:	\$7,904.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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CHECK TO ENSURE TIMELY PROCESSING**

Funding Request Number:	964905
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-957
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$9,192.00
Commitment Adjustment Amount:	\$9,192.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$9,192.00
Funds to be Recovered from Applicant:	\$9,192.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	964916
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-958
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$22,153.84
Commitment Adjustment Amount:	\$22,153.84
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$22,153.84
Funds to be Recovered from Applicant:	\$22,153.84
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	964926
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-959
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$19,200.00
Commitment Adjustment Amount:	\$19,200.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$19,200.00
Funds to be Recovered from Applicant:	\$19,200.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965099
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-960
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$34,368.00
Commitment Adjustment Amount:	\$34,368.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$34,368.00
Funds to be Recovered from Applicant:	\$34,368.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965110
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-961
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$3,829.50
Commitment Adjustment Amount:	\$3,829.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$3,829.50
Funds to be Recovered from Applicant:	\$3,829.50

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965114
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-962
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$2,656.00
Commitment Adjustment Amount:	\$2,656.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,656.00
Funds to be Recovered from Applicant:	\$2,656.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965128
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-963
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$2,768.00
Commitment Adjustment Amount:	\$2,768.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,768.00
Funds to be Recovered from Applicant:	\$2,768.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965138
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-964
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$7,920.00
Commitment Adjustment Amount:	\$7,920.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$7,920.00
Funds to be Recovered from Applicant:	\$7,920.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965150
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	S;D-965
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$4,857.52
Commitment Adjustment Amount:	\$4,857.52
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$4,857.52
Funds to be Recovered from Applicant:	\$4,857.52
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965174
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-967
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$800.00
Commitment Adjustment Amount:	\$800.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$800.00
Funds to be Recovered from Applicant:	\$800.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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EXHIBIT

E



Schools & Libraries Division

**Demand Payment Letter
SECOND REQUEST**

Funding Year 2003: 7/01/2003 - 6/30/2004

November 20, 2006

**SR. JANET RODDY
HOLY TRINITY ELEMENTARY SCHOOL
43 MAPLE AVE
HACKENSACK, NJ 07601 4501**

- PAST DUE NOTICE -

**THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR
ACCOUNT AND YOUR RIGHTS AND OBLIGATIONS UNDER LAW**

**Re: Form 471 Application Number: 357557
Funding Year: 2003
Applicant's Form Identifier: 7671YR6W
Billed Entity Number: 7671
FCC Registration Number: 0012004941
SPIN Name: Future Generation, Inc.
Service Provider Contact Person: Howard Gerber**

You were recently sent a Demand Payment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to this letter. Our records indicate that you have not responded to the Demand Payment Letter. As of October 19, 2006, the debt was past due and delinquent.

**THE FOLLOWING PROVISIONS CONTAIN IMPORTANT INFORMATION AND A
DESCRIPTION OF LEGAL RIGHTS, OBLIGATIONS, AND OPPORTUNITIES**

1. Debtor is cautioned that failure to make the demanded payment or make other satisfactory arrangements will result in further sanctions, including, but not limited to, the initiation of proceedings to recover the outstanding debt, together with any applicable administrative charges, penalties, and interest pursuant to the provisions of the Debt Collection Act of 1982 (Public Law 97-365) and the Debt Collection Improvement Act of 1996 (Public Law 104-134), as amended (the DCIA), as set forth below.

2. If we do not receive full payment of the outstanding debt within 30 days of the date of this letter (Demand Date), pursuant to the DCIA, you may incur additional charges and costs, and the debt may be transferred to the Federal Communications Commission (Commission or FCC) and/or the United States Department of Treasury (Treasury) for debt collection. The FCC has determined that the funds are owed to the United States pursuant to the provisions of 31 U.S.C. § 3701 and 47 U.S.C. § 254. Because the unpaid

amount is a debt owed to the United States, we are required by the DCIA to impose interest and to inform you what may happen if you do not pay the full outstanding debt. Under the DCIA, the United States will charge interest from the date of this notice, you will be required to pay the administrative costs of processing and handling a delinquent debt as set by the Treasury (currently 18% of the debt), and you will be charged an additional penalty of 6% a year for any part of the debt that is more than 90 days past due. Interest on the outstanding debt (DCIA Interest) will be assessed at the published investment rate for the Treasury tax and loan accounts (Treasury Current Value of Funds Rate). If, however, you pay the full amount of the outstanding debt within 30 days of the Demand Date, the DCIA Interest will be waived. These requirements are set out at 31 U.S.C. § 3717.

3. When we transfer the debt (to the Commission or later to the Treasury), you may be subject to other administrative proceedings. Your failure to pay the debt may be reported to credit bureaus (see 31 U.S.C. § 3711(e)), the debt will be considered for administrative offset (see 31 U.S.C. § 3716), the debt may be further transferred to collection agencies (see 31 U.S.C. §§ 3711-3718), and also the debt may be referred to the United States Department of Justice or agency counsel for litigation. In that situation, you may be subject to additional administrative costs that result from the litigation. Moreover, pursuant to 31 U.S.C. § 3720 (B), a person owing an outstanding non-tax debt that is in delinquent status shall not be eligible for Federal financial assistance. You should be aware that the discharge of any portion of the debt may be reported to the Internal Revenue Service as potential taxable income.

Opportunity of Inspection and Review

4. You have an opportunity to inspect and copy the invoices and the records pertinent to the debt. The Notification of Commitment Adjustment Letter constituted notice of your opportunity to appeal the validity of the debt.

Opportunity to Request Repayment Agreement

5. You have an opportunity to request a written repayment agreement (which includes a Promissory Note) to pay the full amount of the debt. In that case, however, you must first provide evidence that demonstrates financial inability to pay the debt in one payment. Your claim of financial inability to pay in one payment is subject to verification (see 31 C.F.R. § 901.8). If your request is approved for further processing, you will be required to execute a written agreement suitable to the Commission. You should be aware that repayment agreements regularly impose a number of obligations on the debtor, including additional administrative charges, audit obligations, and surety bond requirements. For more information on the obligations associated with repayment agreements, see "USAC Repayment Request Procedure"

<http://www.universalservice.org/fund-administration/contributors/paying-your-invoice/payment-extension-plans.aspx>. If you desire to exercise any of the above described rights, you must do so in writing which must be delivered to and received at the address below within 30 (thirty) days of the Demand Date. Any required evidence must be submitted at the same time that you submit your request. Failure to provide the written request (and, as appropriate, the required evidence) within the stated time is a waiver of these opportunities.

You may notify us in writing by mail or facsimile transmission at the following address and telephone number:

Schools and Libraries Division- Program Compliance II,
Dept. 125 - Correspondence Unit,
100 South Jefferson Road,
Whippany, NJ 07981
Phone Number: 973-581-5395
Fax Number: 973-599-6582

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181) (Fourth Report and Order), the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this will be indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full Funds to be Recovered from Applicant amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, IL 60661

PAYMENT MUST BE RETURNED IMMEDIATELY.

Complete program information is posted to the SLD section of the USAC web site at www.universalservice.org/sl/. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: Howard Gerber
Future Generation, Inc.

Funding Commitment Adjustment Report
Form 471 Application Number: 357557

Funding Request Number:	964893
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-956
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$7,904.00
Commitment Adjustment Amount:	\$7,904.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$7,904.00
Funds to be Recovered from Applicant: ¹	\$7,904.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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¹ Please note that if the Funds to be Recovered from the Applicant is less than what was reported on the Notification of Commitment Adjustment Letter or the 1st Demand Payment Letter it is because you have partially repaid the debt or because the service provider has partially repaid the debt.

Funding Request Number:	964905
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-957
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$9,192.00
Commitment Adjustment Amount:	\$9,192.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$9,192.00
Funds to be Recovered from Applicant: ¹	\$9,192.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	964916
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-958
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$22,153.84
Commitment Adjustment Amount:	\$22,153.84
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$22,153.84
Funds to be Recovered from Applicant:	¹ \$22,153.84

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	964926
Services Ordered:-	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-959
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$19,200.00
Commitment Adjustment Amount:	\$19,200.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$19,200.00
Funds to be Recovered from Applicant: ¹	\$19,200.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965099
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-960
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$34,368.00
Commitment Adjustment Amount:	\$34,368.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$34,368.00
Funds to be Recovered from Applicant: ¹	\$34,368.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965110
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-961
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$3,829.50
Commitment Adjustment Amount:	\$3,829.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$3,829.50
Funds to be Recovered from Applicant: ¹	\$3,829.50
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965114
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-962
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$2,656.00
Commitment Adjustment Amount:	\$2,656.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,656.00
Funds to be Recovered from Applicant: ¹	\$2,656.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965128
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-963
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$2,768.00
Commitment Adjustment Amount:	\$2,768.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,768.00
Funds to be Recovered from Applicant: ¹	\$2,768.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965138
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-964
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$7,920.00
Commitment Adjustment Amount:	\$7,920.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$7,920.00
Funds to be Recovered from Applicant: ¹	\$7,920.00
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965150
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	S;D-965
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$4,857.52
Commitment Adjustment Amount:	\$4,857.52
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$4,857.52
Funds to be Recovered from Applicant: ¹	\$4,857.52
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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Funding Request Number:	965174
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143007891
Service Provider Name:	Future Generation, Inc.
Contract Number:	SLD-967
Billing Account Number:	N/A
Site Identifier:	7671
Original Funding Commitment:	\$800.00
Commitment Adjustment Amount:	\$800.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$800.00
Funds to be Recovered from Applicant: ¹	\$800.00
Funding Commitment Adjustment Explanation:	

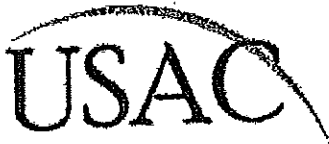
After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review it was determined that service provider contact information appeared on the cited Form 470#226380000440190. The e-mail address, sld@futuregeninc.com, used for contact purposes, belongs to the service provider Future Generation, Inc. Future Generation, Inc. was selected as a service provider pursuant to the posting of this Form 470. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. All Funding Requests that relate to this Form 470 are required to be denied because the Form 470 is tainted. Accordingly, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

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EXHIBIT

F



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: OUR LADY GOOD COUNSEL ELEM SCH
Billed Entity Number: 7118
Form 471 Application Number: 359187
Funding Request Number(s): 970667, 970670, 970672, 970674, 970676,
970678, 970680
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 970667, 970670, 970672, 970674, 970676,
970678, 970680

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 749900000443376, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Pat McGrath



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: ST LUCY'S SCHOOL
Billed Entity Number: 7111
Form 471 Application Number: 359178
Funding Request Number(s): 970547, 970549, 970553, 970556, 970561,
970566, 970569, 970572, 970575, 970576
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 970547, 970549, 970553, 970556, 970561,
970566, 970569, 970572, 970575, 970576

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 966920000436912, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

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- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

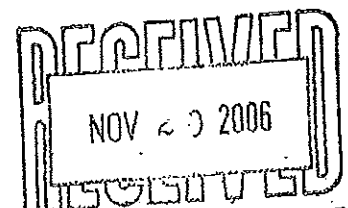
We thank you for your continued support, patience and cooperation during the appeal process.

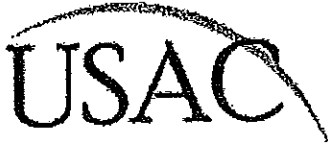
Schools and Libraries Division
Universal Service Administrative Company

cc: Sr. Claudette

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7111
Form 471 Application Number: 359178
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: MOTHER SETON PAROCHIAL SCHOOL
Billed Entity Number: 7011
Form 471 Application Number: 357662
Funding Request Number(s): 965254, 965264, 965279, 965283, 965302,
965316, 965330, 965358, 965372, 965387,
965407, 965426, 965459
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 965254, 965264, 965279, 965283, 965302,
965316, 965330, 965358, 965372, 965387,
965407, 965426, 965459

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 851040000436918, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

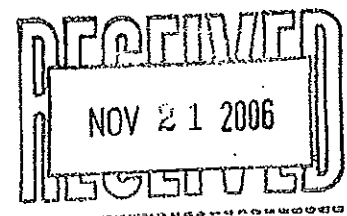
We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Mary McErlaine

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7011
Form 471 Application Number: 357662
Form 486 Application Number: .





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: ST MARY HIGH SCHOOL
Billed Entity Number: 7317
Form 471 Application Number: 359171
Funding Request Number(s): 970468, 970471, 970474, 970477, 970480,
970481, 970483, 970486, 970487, 970490,
970491
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 970468, 970471, 970474, 970477, 970480,
970481, 970483, 970486, 970487, 970490,
970491

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 656270000440184, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

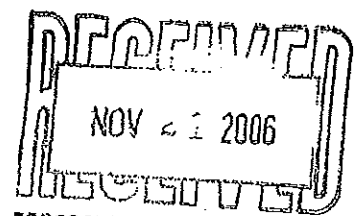
We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Beatriz Esteban

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7317
Form 471 Application Number: 359171
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: OUR LADY OF GOOD COUNSEL
SCHOOLS
Billed Entity Number: 7119
Form 471 Application Number: 358346
Funding Request Number(s): 967480, 967488, 967500, 967510, 967520,
967532, 967555, 967568, 967585
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 967480, 967488, 967500, 967510, 967520,
967532, 967555, 967568, 967585

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 762470000443379, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

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We thank you for your continued support, patience and cooperation during the appeal process.

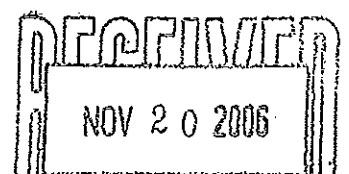
Schools and Libraries Division
Universal Service Administrative Company

cc: Ania Jarmulowicz

cc: Nathan Potts

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7119
Form 471 Application Number: 358346
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: HOLY TRINITY ELEMENTARY SCHOOL
Billed Entity Number: 7671
Form 471 Application Number: 357557
Funding Request Number(s): 964893, 964905, 964916, 964926, 965099,
965110, 965114, 965128, 965138, 965150,
965160, 965174
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 964893, 964905, 964916, 964926, 965099,
965110, 965114, 965128, 965138, 965150,
965160, 965174

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 226380000440190, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

NOV 27 2006

Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

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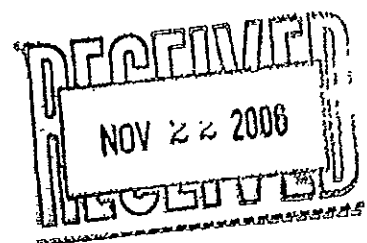
We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Sr. Janet Roddy

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7671
Form 471 Application Number: 357557
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 16, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: ST PATRICK SCHOOL
Billed Entity Number: 7341
Form 471 Application Number: 358142
Funding Request Number(s): 966978, 966980, 966983, 966985, 966986,
966990, 967000, 967015, 967026, 967030,
967039, 967045, 967049, 967053, 967057,
967062

Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 966978, 966980, 966983, 966985, 966986,
966990, 967000, 967015, 967026, 967030,
967039, 967045, 967049, 967053, 967057,
967062

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 854190000440273, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact

information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

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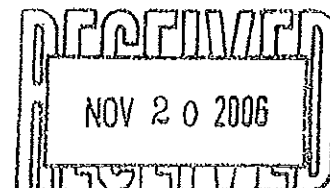
We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Pat West or Sr. Maeve

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7341
Form 471 Application Number: 358142
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 28, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: BLESSED SACRAMENT SCHOOL
Billed Entity Number: 7167
Form 471 Application Number: 358234
Funding Request Number(s): 967162, 967168, 967175, 967181, 967194,
967201, 967208, 967228, 967238, 967264,
967278, 967295, 967306 .
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

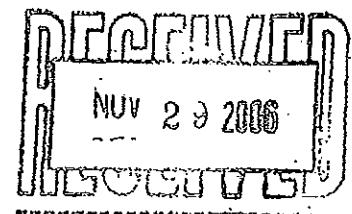
Funding Request Number(s): 967162, 967168, 967175, 967181, 967194,
967201, 967208, 967228, 967238, 967264,
967278, 967295, 967306

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 966040000440187, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 7167
Form 471 Application Number: 358234
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

December 01, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: ASSUMPTION-ALL SAINTS SCHOOL
Billed Entity Number: 7348
Form 471 Application Number: 357472
Funding Request Number(s): 964519, 964526, 964534, 964553, 964560,
964570, 964580, 964593, 964603, 964615,
964623, 964633, 964662
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 964519, 964526, 964534, 964553, 964560,
964570, 964580, 964593, 964603, 964615,
964623, 964633, 964662

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 110180000434775, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

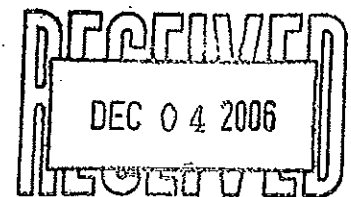
If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

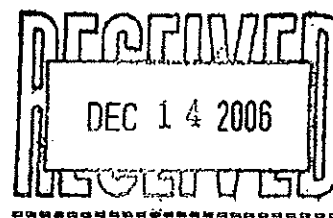
Billed Entity Number: 7348
Form 471 Application Number: 357472
Form 486 Application Number:



1962.01
USAC APPEAL DENIAL

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Billed Entity Number: 6575
Form 471 Application Number: 357752
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

December 13, 2006

Raymond Barto
Kaps & Barto
15 Warren Street
Hackensack, NJ 07601

Re: Applicant Name: OUR LADY HELP CHRISTIANS SCH
Billed Entity Number: 6575
Form 471 Application Number: 357752
Funding Request Number(s): 965603, 965611, 965626, 965656, 965670,
965685, 965699, 965713, 965732, 965747,
965774, 965791, 965814
Your Correspondence Dated: September 06, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 965603, 965611, 965626, 965656, 965670,
965685, 965699, 965713, 965732, 965747,
965774, 965791, 965814

Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that service provider contact information (email address) appears on the cited Form 470 application number 933500000434753, and therefore has tainted the competitive bidding process. FCC rules require applicants to submit a Form 470 to initiate the competitive bidding process, and to conduct a fair and open process. If the applicant has posted a Form 470 that contains contact information for a service provider that participates in the competitive bidding process, the applicant has violated this requirement, and FCC rules consider this

Form 470 to be tainted. You have failed to provide evidence on appeal that the USAC erred in its original decision. Consequently, USAC denies your appeal.

- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.*, 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Anetra Tilley

EXHIBIT

G

KAPS & BARTO, ESQS.
15 Warren Street
Hackensack, New Jersey 07601
201-489-5277
Attorneys for Appellants

UNIVERSAL SERVICE
ADMINISTRATIVE COMPANY

*In the Matter of an Appeal from USAC
Notices of Commitment Adjustments:*

FUTURE GENERATION, INC., a New
Jersey corporation, MOTHER SETON
PAROCHIAL SCHOOL, a not for profit
educational institution, HOLY TRINITY
SCHOOL, a not for profit educational
institution, OUR LADY OF HELP
CHRISTIANS SCHOOL, a not for profit
educational institution, BLESSED
SACRAMENT SCHOOL, a not for profit
educational institution, ST. PATRICK
SCHOOL, a not for profit educational
institution into which institution has merged
ASSUMPTION-ALL SAINTS SCHOOL, and
ST. MARY'S HIGH SCHOOL, a not for
profit educational institution,
Appellants.

*Appeal
from USAC Notices of
Commitment Adjustments*

AFFIDAVIT OF HOWARD GERBER

STATE OF NEW JERSEY }
 } ss.
COUNTY OF BERGEN }

HOWARD GERBER, having been duly sworn upon his oath, does hereby say:

1. I am the chief operating officer and Director of Technical Support for appellant Future

Our Lady of Good Counsel Elementary School

Our Lady of Help Christians School, FCC #12005054

St. Lucy's School, Newark, NJ, FCC #12005260

St. Mary's High School, FCC #12005294

St. Patrick School, Jersey City, NJ (into which Assumption - All Saints School has recently merged), FCC #12005310

4. Each of the above schools joins Future in appealing the USAC Commitment Adjustment Letters for 2003.
5. The facts of each school's appeal and of Future's appeal are largely identical. In each instance, the Commitment Adjustment Letters outlined above, relate that each institution's 2003, FCC Form 470, at Block 6, not only employs an incorrect email address for the applicant but, in fact, uses a technical services support address made available to the schools by Future, sld@futuregeninc.com. Based on this, USAC has sought to rescind the myriad Funding Requests cited in the tables above, reasoning that any applicant's Form 470 reference to a Future email address would taint the competitive bidding process mandated by FCC.

BLOCK 6 ERROR IS THE PRODUCT OF INADVERTENT MISTAKE

6. As explained to USAC in writing via letters to its investigator, Kelly Miller, each school has conceded that an honest mistake was made. Unfortunately, when asked for an e-mail address in their Form 470 application, the school staff innocently thought they should put the e-mail address set up at Future Generation for technical support. Since a majority of the funding requests pertain to hardware and software, they assumed that any technical questions the SLD had in relation to these items would best be answered by us. They misunderstood our

purpose of setting up this additional means of communication, and the purpose of the Block 6 request. They also overlooked the fact that service providers are not allowed to be involved on the applicant's behalf.

IMMEDIATE TERMINATION OF THE E-MAILBOX BY FUTURE

7. Significantly, though, once Future learned of the schools' Block 6 gaffe, it instantly understood the import for the bidding process and immediately terminated the mailbox to eliminate any involvement with their applications. We are aware of the rules and regulations the FCC sets forth and would not jeopardize our clients' funding by personally getting involved or influencing them in any way.
8. Future's best estimation of the creation of the email address in question is November 28, 2002, which is three or so days before the filing dates of the first of the Forms 470 submitted to USAC by the appellant schools. The schools' email designation error was first discovered by us on or about December 18, 2002, when Ms. Jarmulowicz of Our Lady of Good Counsel High School disclosed it to me during a casual conversation.
9. Immediately upon discovering the problem, Future terminated the email support address — that is, as noted above, on December 18, 2002. This means that the email address was only "in play" as part of the Forms 470 problem from December 1st through December 18th. The Form 470 submissions for Our Lady of Good Counsel High School and Elementary School were the final submissions to USAC using the incorrect email address.

NO QUERIES MADE THROUGH THE E-MAILBOX

10. Finally, and of equal significance, as the e-mail address was terminated immediately upon Future's awareness of its use, *no correspondence was ever received* through this address. No bidding queries were made, no questions were asked for bidding purposes, and, ironically, no product support questions were ever sent to us by the schools, their staff, or the Schools Libraries Division of USAC. Throughout its short existence, the Future Generation support email address was silent, dormant and served no useful purpose, let alone "tainting" the bidding process.

THIRD PARTY VENDOR BID INQUIRIES RECEIVED BY SCHOOLS

11. Moreover, Future's investigation has revealed that several of the school appellants had prepared their own informal RFPs — actually, lists of equipment and services — for purposes of dealing with vendors. Attached hereto at Exhibit A are copies of the documents obtained from Our Lady of Good Counsel High School, Our Lady of Good Counsel Elementary School, St. Patrick School, and Assumption - All Saints School.
12. Importantly, our investigation also learned that each of these USAC applicants, together with St. Lucy's School and Our Lady Help of Christians School, received verbal bid inquiries from potential vendors.
13. This is not surprising. Although the Future email address was inadvertently listed on the Form 470s as the preferred method of contact, most service providers engaged in our business would have immediately recognized that the email address was that of another provider and would have chosen to utilize another means of contact with the institution:

14. Accordingly, it cannot be said that there is any "taint" in the bidding with respect to these six schools — after all, they all received legitimate bid queries.

THE FINANCIAL HARDSHIPS USAC'S PENALTY WOULD IMPOSE

15. Finally, USAC must give due consideration to the enormity of what it has proposed. In each instance, Future delivered the goods and services to the schools. In fact, I understand that USAC's technology auditor, BearingPoint, has reviewed several of the schools and that no audit has resulted in any finding that Future failed to deliver the goods and services for which the schools contracted.
16. USAC is thus requesting that the appellant schools refund monies which they simply do not have and for which they were provided with goods and services. These schools are located in New Jersey's most urban and economically challenged communities, including Newark, East Orange, Union City and Jersey City. They already maintain a delicately balanced, hand-to-mouth financial existence which will be thrown off-kilter if forced to rebate monies already spent — let alone, nearly three years ago. This is far more financial hardship than the schools could ever deserve for having committed a naively innocent mistake.
17. Similarly, because of the amounts involved and because the goods and services have already been delivered and paid for, Future cannot afford to rebate the monies sought. By our calculation, the full amounts equal over \$700,000, an amount which will likely cause the dissolution of our company, put our personnel (including me) out of work, and, ultimately, diminish the competitive bidding environment which USAC seeks to foster.

-
18. While I understand that USAC is taking a hard look at our contracts with the schools, I would be remiss if I did not point out that we actually saved USAC funds in the 2003 funding year.
 19. It is significant that adjustment (and loss) of the undisbursed commitments, another \$309,746.02, will not adversely affect the schools or Future.
 20. There is often a time gap between the posting of approved funding work by the schools' Forms 471, and the time for deployment of the goods and services ordered thereby. In the case of the undisbursed commitments, work related to these Forms 471 funding requests were deemed excessive, unnecessary, obsolete or redundant by Future, in conjunction and consultation with the schools, when the time arrived for performance. Accordingly, the work set forth in the relevant Forms 471 was never done, charged or billed. The USAC funding was not needed and was never claimed by the schools or by Future in the billing process, representing a net savings to USAC of nearly \$310,000.
 21. Future provided \$731,000 worth of goods and services related to the 2003 Forms 741, the schools received the goods and services, and USAC was billed only for what was delivered and not one penny more.
 22. Therefore, USAC must take into consideration that the appellants, in the relevant year, actually turned away \$309,746.02 in approved funding, an action which would surely be at odds with any intent, plan or conspiracy aimed at achieving fraud or abuse of USAC funding.

23. Under all of these circumstances, I request that USAC either grant the appellants' appeals or, alternatively, grant a waiver with respect to the Block 6 error.



HOWARD GERBER

Sworn to and subscribed before me
this 27th day of August 2006.



Notary

BONNIE LYNN O'BRIEN
A Notary Public Of New Jersey
My Commission Expires September 16, 2007

***Assumption / All Saints
Internals for Funding Year 2003-2004***

Servers:

Web server, including operating system and appropriate licenses .

Terminal server, including operating system and appropriate licenses .

Upgrade existing server with more RAM, additional hard drive

Wiring:

Upgrade existing wiring throughout the building

Expansion of wireless network, including wiring to support same

Upgrade existing switches/hubs

Other Equipment:

Tape Backup Unit

Video Conference Unit

Uninterruptable Power Supply (4)

Documentation:

Basic Network Documentation

Maintenance:

Maintenance Agreement

St. Patrick School
Internals for Funding Year 2003-2004

Web server, including operating system and appropriate licenses

Terminal server, including operating system and appropriate licenses

Upgrade existing server with more RAM, additional hard drive

Expansion of hard wiring throughout the building

Expansion of wireless network, including wiring to support same

Upgrade existing switches/hubs

Wiring cabinets/racks

Tape Backup Unit

Video Conference Unit

Documentation

Maintenance Agreement

**Our Lady of Good Counsel Elementary
Requests for Funding Year 6 (2003/2004)**

- ✓ Upgrade existing server with additional RAM, hard drive, etc.
- ✓ Upgrade existing wiring
- ✓ Install wireless
- ✓ Upgrade existing switches/hubs
- ✓ Tape Back Up
- ✓ Replace Power Supply in four wiring closets
- ✓ Software – 100 Client Access Licenses
- ✓ Video Conference Equipment
- ✓ New Phone System
- ✓ Maintenance Agreement

**Our Lady of Good Counsel H.S.
Requests for Funding Year 6 (2003/2004)**

- ✓ Server
- ✓ Upgrade existing server with additional RAM, hard drive, etc.
- ✓ Upgrade existing wiring
- ✓ Install Wireless
- ✓ Upgrade existing switches/hubs
- ✓ Tape Back Up
- ✓ Video Conference Equipment
- ✓ New Phone System
- ✓ Maintenance Agreement

EXHIBIT

H

KAPS & BARTO, ESQS.
15 Warren Street
Hackensack, New Jersey 07601
201-489-5277
Attorneys for Appellants

**UNIVERSAL SERVICE
ADMINISTRATIVE COMPANY**

*In the Matter of an Appeal from USAC
Notices of Commitment Adjustments:*

FUTURE GENERATION, INC., a New Jersey corporation, MOTHER SETON PAROCHIAL SCHOOL, a not for profit educational institution, HOLY TRINITY SCHOOL, a not for profit educational institution, OUR LADY OF HELP CHRISTIANS SCHOOL, a not for profit educational institution, BLESSED SACRAMENT SCHOOL, a not for profit educational institution, and ST. PATRICK SCHOOL, a not for profit educational institution into which institution has merged ASSUMPTION-ALL SAINTS SCHOOL, ST. MARY'S HIGH SCHOOL, a not for profit educational institution,

Appellants.

*Appeal
from USAC Notices of
Commitment Adjustments*

**AFFIDAVIT OF
RAYMOND BARTO, ESQ.,
IN SUPPORT OF APPEAL**

STATE OF NEW JERSEY }
 } ss.
COUNTY OF BERGEN }

RAYMOND BARTO, having been duly sworn upon his oath, hereby deposes and says:

1. I am an attorney at law for the State of New Jersey and a member of the law firm of Kaps &

Barto, Esqs., counsel for the appellants identified in the above captioned matter. I make this affidavit in further support of our clients' appeal to the USAC, whereby they request, based upon a mere inadvertence and clerical mistake, that the USAC either withdraw its Commitment Adjustment notices for 2003 or, alternatively, grant a waiver with respect to our clients' errors in their 2002 postings of Forms 470.

2. To show the USAC the enormity of the consequences of its demand for refunding of its 2003 commitments to the appellant schools and Future Generation, Inc., my office has analyzed the various commitment adjustment notices. See Exhibit A appended hereto.
3. A summary of our work shows the following amounts to be "in play":

Total Original Funding Commitment to Appellants from USAC	\$1,040,772.85
Amount of Adjustment Demanded	\$1,040,772.85
Funds Actually Disbursed to Date to Appellants	\$731,026.83
Funds Which USAC Seeks to Recover	\$731,026.83

4. In each instance, the USAC notices of commitment adjustment essentially demand recovery from both the affected school and the service provider, Future Generation, Inc. Thus, in the case of Future Generation, the USAC demands amount to the fully disbursed funds, \$731,026.83, an amount which will not only prove a hardship but will likely be the financial undoing of the company.
5. In the case of the schools, even setting aside USAC commitments which were never funded, the amounts sought to be recovered are as follows:

Appellant School	Funds Disbursed and For Which Recovery is Sought
Assumption - All Saints	\$63,627.82
Blessed Sacrament	\$76,948.59
Holy Trinity	\$114,848.86
Mother Seton Interparochial	\$49,810.95
Our Lady of Good Counsel Elem.	\$84,834.79
Our Lady of Good Counsel H.S.	\$46,747.02
Our Lady Help of Christians	\$71,385.55
St. Lucy's	\$42,992.40
St. Mary's H.S.	\$95,256.68
St. Patrick	\$84,574.17
TOTAL:	\$731,026.83

6. As the chart shows, each of the amounts at issue are not small by urban-center, parochial school standards where teacher salaries often start in the low to mid-\$20,000 range, and if recovery is demanded, there will be great hardship for my clients.
7. I understand that adjustment (and loss) of the undisbursed commitments, another \$309,746.02, will not affect the schools or Future. As set forth in the accompanying certification of Howard Gerber, there is often a time gap between the posting of approved funding work by the schools' Forms 471, and the time for deployment of the goods and services ordered thereby.
8. In the case of the undisbursed commitments, totaling \$309,746.02, work related to these Forms 471 funding requests were deemed excessive, unnecessary or redundant by Future, in conjunction and consultation with the schools, when the time arrived for performance.
9. Thus, USAC must take into consideration that the appellants, in the relevant year, actually

turned away \$309,746.02 in approved funding, an action which would surely be at odds with any intent, plan or conspiracy aimed at achieving fraud or abuse of USAC funding.



RAYMOND BARTO

Sworn to and subscribed before me
this 16th day of September 2006.



Notary

LENORE B. ROTH
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 02/20/2011

SCHOOLS FUNDING ADJUSTMENTS BY USAC 2003-2004

ST LUCYS																
Funding Req #	970547	970549	970553	970556	970561	970566	970569	970572	970575	970576						
Orig Funding Commitment	\$8,900.00	\$8,160.80	\$800.00	\$4,800.00	\$920.00	\$7,904.00	\$10,024.00	\$6,461.54	\$4,857.52	\$4,786.88						Totals
Ant of Adjustment	\$8,900.00	\$8,160.80	\$800.00	\$4,800.00	\$920.00	\$7,904.00	\$10,024.00	\$6,461.54	\$4,857.52	\$4,786.88						\$57,614.74
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00						\$0.00
Funds Disbursed to Date	\$8,900.00	\$0.00	\$800.00	\$4,800.00	\$920.00	\$7,904.00	\$10,024.00	\$0.00	\$4,857.52	\$4,786.88						\$42,992.40
Funds to be recovered	\$8,900.00	\$0.00	\$800.00	\$4,800.00	\$920.00	\$7,904.00	\$10,024.00	\$0.00	\$4,857.52	\$4,786.88						\$42,992.40
ST. PATRICK																
Funding Req #	966985	966986	966990	967000	967015	967026	967030	967039	967045	967049						
Orig Funding Commitment	\$10,341.00	\$5,400.00	\$1,035.00	\$16,110.00	\$10,384.61	\$13,500.00	\$2,154.10	\$1,077.05	\$3,114.00	\$2,988.00						
Ant of Adjustment	\$10,341.00	\$5,400.00	\$1,035.00	\$16,110.00	\$10,384.61	\$13,500.00	\$2,154.10	\$1,077.05	\$3,114.00	\$2,988.00						
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00						
Funds Disbursed to Date	\$10,341.00	\$5,400.00	\$1,035.00	\$8,055.00	\$5,192.31	\$0.00	\$2,154.10	\$1,077.05	\$3,114.00	\$2,988.00						
Funds to be recovered	\$10,341.00	\$5,400.00	\$1,035.00	\$8,055.00	\$5,192.31	\$0.00	\$2,154.10	\$1,077.05	\$3,114.00	\$2,988.00						
Funding Req #	967053	967057	967062	966978	966980	966983										Totals
Orig Funding Commitment	\$5,464.71	\$900.00	\$8,820.90	\$10,799.10	\$8,892.00	\$10,341.00										\$111,321.47
Ant of Adjustment	\$5,464.71	\$900.00	\$8,820.90	\$10,799.10	\$8,892.00	\$10,341.00										\$111,321.47
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00										\$0.00
Funds Disbursed to Date	\$5,464.71	\$900.00	\$8,820.90	\$10,799.10	\$8,892.00	\$10,341.00										\$84,574.17
Funds to be recovered	\$5,464.71	\$900.00	\$8,820.90	\$10,799.10	\$8,892.00	\$10,341.00										\$84,574.17
MOTHER SETON																
Funding Req #	965254	965264	965279	965283	965302	965315	965330	965358	965372	965387						
Orig Funding Commitment	\$5,464.71	\$900.00	\$2,988.00	\$5,385.24	\$13,590.00	\$34,269.23	\$53,163.00	\$9,180.00	\$4,050.00	\$1,035.00						
Ant of Adjustment	\$5,464.71	\$900.00	\$2,988.00	\$5,385.24	\$13,590.00	\$34,269.23	\$53,163.00	\$9,180.00	\$4,050.00	\$1,035.00						
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00						
Funds Disbursed to Date	\$5,464.71	\$900.00	\$2,988.00	\$5,385.24	\$0.00	\$0.00	\$0.00	\$0.00	\$4,050.00	\$1,035.00						
Funds to be recovered	\$5,464.71	\$900.00	\$2,988.00	\$5,385.24	\$0.00	\$0.00	\$0.00	\$0.00	\$4,050.00	\$1,035.00						
Funding Req #	965407	965426	965439													Totals
Orig Funding Commitment	\$8,892.00	\$10,341.00	\$10,755.00													\$160,013.18
Ant of Adjustment	\$8,892.00	\$10,341.00	\$10,755.00													\$160,013.18
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00													\$0.00
Funds Disbursed to Date	\$8,892.00	\$10,341.00	\$10,755.00													\$49,810.95
Funds to be recovered	\$8,892.00	\$10,341.00	\$10,755.00													\$49,810.95

OUR LADY OF GOOD COUNSEL HS													
Funding Req #	967480	967488	967500	967510	967520	967532	967555	967568	967585				
Orig Funding Commitment	\$920.00	\$2,400.00	\$20,048.00	\$12,923.07	\$1,914.75	\$4,857.52	\$9,520.00	\$8,160.80	\$3,583.98				Totals
Am't of Adjustment	\$920.00	\$2,400.00	\$20,048.00	\$12,923.07	\$1,914.75	\$4,857.52	\$9,520.00	\$8,160.80	\$3,583.98				\$64,328.12
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00				\$0.00
Funds Disbursed to Date	\$920.00	\$2,400.00	\$14,320.00	\$9,230.77	\$1,914.75	\$4,857.52	\$9,520.00	\$0.00	\$3,583.98				\$46,747.02
Funds to be recovered	\$920.00	\$2,400.00	\$14,320.00	\$9,230.77	\$1,914.75	\$4,857.52	\$9,520.00	\$0.00	\$3,583.98				\$46,747.02
OUR LADY OF GOOD COUNSEL ELEMENTARY													
Funding Req #	970667	967670	970672	970674	970676	970678	970680						
Orig Funding Commitment	\$7,904.00	\$8,760.00	\$8,160.80	\$41,886.00	\$30,000.00	\$5,385.24	\$4,857.52						Totals
Am't of Adjustment	\$7,904.00	\$8,760.00	\$8,160.80	\$41,886.00	\$30,000.00	\$5,385.24	\$4,857.52						\$106,953.56
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00						\$0.00
Funds Disbursed to Date	\$7,904.00	\$8,760.00	\$8,160.80	\$28,998.00	\$20,769.23	\$5,385.24	\$4,857.52						\$84,834.79
Funds to be recovered	\$7,904.00	\$8,760.00	\$8,160.80	\$28,998.00	\$20,769.23	\$5,385.24	\$4,857.52						\$84,834.79
BLESSED SACRAMENT													
Funding Req #	967162	967168	967175	967181	967194	967201	967208	967228	967238	967264			
Orig Funding Commitment	\$9,160.00	\$7,904.00	\$8,600.00	\$3,600.00	\$920.00	\$20,048.00	\$12,923.07	\$13,040.00	\$3,984.00	\$4,152.00			
Am't of Adjustment	\$9,160.00	\$7,904.00	\$8,600.00	\$3,600.00	\$920.00	\$20,048.00	\$12,923.07	\$13,040.00	\$3,984.00	\$4,152.00			
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Funds Disbursed to Date	\$9,160.00	\$7,904.00	\$8,600.00	\$3,600.00	\$920.00	\$20,048.00	\$12,923.07	\$0.00	\$3,984.00	\$4,152.00			
Funds to be recovered	\$9,160.00	\$7,904.00	\$8,600.00	\$3,600.00	\$920.00	\$20,048.00	\$12,923.07	\$0.00	\$3,984.00	\$4,152.00			
Funding Req #	967278	967295	967306										
Orig Funding Commitment	\$800.00	\$4,857.52	\$8,160.80										Totals
Am't of Adjustment	\$800.00	\$4,857.52	\$8,160.80										\$98,149.39
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00										\$0.00
Funds Disbursed to Date	\$800.00	\$4,857.52	\$0.00										\$76,948.59
Funds to be recovered	\$800.00	\$4,857.52	\$0.00										\$76,948.59

OUR LADY HELP													
Funding Req #	966595	966603	966611	966620	966626	966656	966670	966685	966699	966713	966732		
Orig Funding Commitment	\$9,180.90	\$33,831.00	\$21,807.68	\$6,444.00	\$4,153.84	\$8,892.00	\$9,855.00	\$2,154.10	\$1,077.05	\$10,799.10	\$5,464.71		
Am't of Adjustment	\$9,180.90	\$33,831.00	\$21,807.68	\$6,444.00	\$4,153.84	\$8,892.00	\$9,855.00	\$2,154.10	\$1,077.05	\$10,799.10	\$5,464.71		
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
Funds Disbursed to Date	\$0.00	\$0.00	\$21,807.68	\$0.00	\$4,153.84	\$8,892.00	\$9,855.00	\$2,154.10	\$1,077.05	\$9,719.19	\$5,464.71		
Funds to be recovered	\$0.00	\$0.00	\$21,807.68	\$0.00	\$4,153.84	\$8,892.00	\$9,855.00	\$2,154.10	\$1,077.05	\$9,719.19	\$5,464.71		
Funding Req #	966747	966774	966791	966814									
Orig Funding Commitment	\$4,031.98	\$2,700.00	\$630.00	\$900.00									
Am't of Adjustment	\$4,031.98	\$2,700.00	\$630.00	\$900.00									
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00									
Funds Disbursed to Date	\$4,031.98	\$2,700.00	\$630.00	\$900.00									
Funds to be recovered	\$4,031.98	\$2,700.00	\$630.00	\$900.00									
ASSUMPTION-ALL SAINTS													
Funding Req #	964519	964526	964534	964533	964560	964570	964580	964593	964603	964615			
Orig Funding Commitment	\$10,799.10	\$900.00	\$5,400.00	\$1,035.00	\$8,892.00	\$9,855.00	\$3,231.14	\$2,154.10	\$19,332.00	\$12,461.54			
Am't of Adjustment	\$10,799.10	\$900.00	\$5,400.00	\$1,035.00	\$8,892.00	\$9,855.00	\$3,231.14	\$2,154.10	\$19,332.00	\$12,461.54			
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			
Funds Disbursed to Date	\$10,799.10	\$900.00	\$5,400.00	\$1,035.00	\$8,892.00	\$9,855.00	\$3,231.14	\$2,154.10	\$9,666.00	\$6,230.77			
Funds to be recovered	\$10,799.10	\$900.00	\$5,400.00	\$1,035.00	\$8,892.00	\$9,855.00	\$3,231.14	\$2,154.10	\$9,666.00	\$6,230.77			
Funding Req #	964623	964633	964662										
Orig Funding Commitment	\$13,500.00	\$5,464.71	\$9,180.90										
Am't of Adjustment	\$13,500.00	\$5,464.71	\$9,180.90										
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00										
Funds Disbursed to Date	\$0.00	\$5,464.71	\$0.00										
Funds to be recovered	\$0.00	\$5,464.71	\$0.00										
ST MARY'S HS													
Funding Req #	970477	970480	970481	970483	970486	970487	970490	970491	970498	970471	970474		
Orig Funding Commitment	\$19,332.00	\$12,461.54	\$13,050.00	\$5,385.24	\$15,120.00	\$9,180.90	\$4,482.00	\$900.00	\$11,610.00	\$2,700.00	\$1,035.00		
Am't of Adjustment	\$19,332.00	\$12,461.54	\$13,050.00	\$5,385.24	\$15,120.00	\$9,180.90	\$4,482.00	\$900.00	\$11,610.00	\$2,700.00	\$1,035.00		
Adjusted Funding Commitment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
Funds Disbursed to Date	\$19,332.00	\$12,461.54	\$13,050.00	\$5,385.24	\$15,120.00	\$9,180.90	\$4,482.00	\$900.00	\$11,610.00	\$2,700.00	\$1,035.00		
Funds to be recovered	\$19,332.00	\$12,461.54	\$13,050.00	\$5,385.24	\$15,120.00	\$9,180.90	\$4,482.00	\$900.00	\$11,610.00	\$2,700.00	\$1,035.00		
Totals													

EXHIBIT

I

FCC Form

Approval by OMB
3060-0806**470**

Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 5.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before completing.

(To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and Identifications (School, library, or consortium desiring Universal Service funding.)

Form 470 Application Number: 226380000440190			
Applicant's Form Identifier: 7671YR6W			
Application Status: INCOMPLETE			
Posting Date:			
Allowable Contract Date:			
Certification Received Date:			
1. Name of Applicant: HOLY TRINITY ELEMENTARY SCHOOL			
2. Funding Year: 07/01/2003 - 06/30/2004		3. Your Entity Number 7671	
4. Applicant's Street Address, P.O.Box, or Route Number			
a. Street 43 MAPLE AVE			
City HACKENSACK	State NJ	Zip Code 5Digit 07601	Zip Code 4Digit 4501
b. Telephone number (201) 489- 6870		c. Fax number (201) 489- 2981	
d. E-mail Address			
5. Type Of Applicant (Check only one box)			
<input type="radio"/> Library (including library system, library branch, or library consortium applying as a library)			
<input checked="" type="radio"/> Individual School (individual public or non-public school)			
<input type="radio"/> School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools)			
<input type="radio"/> Consortium (intermediate service agencies, states, state networks, special consortia)			
6a. Contact Person's Name: Sr. Janet Roddy			
6b. Street Address, P.O.Box, or Route Number (if different from Item 4)			
<input checked="" type="radio"/> 43 MAPLE AVE			

City HACKENSACK	State NJ	Zip Code 5Digit 07601	Zip Code 4Digit 4501
6c. Telephone Number (10 digits + ext.) (201) 489- 6870			
6d. Fax Number (10 digits) (201) 489- 2981			
6e. E-mail Address (50 characters max.) sld@futuregeninc.com			

Block 2: Summary Description of Needs or Services Requested

<p>7 This Form 470 describes (check all that apply):</p> <p>a. <input type="checkbox"/> Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.</p> <p>b. <input type="checkbox"/> Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.</p> <p>c. <input checked="" type="checkbox"/> Services for which a new written contract is sought for the funding year in Item 2.</p> <p>d. <input type="checkbox"/> A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.</p> <p>NOTE: Services that are covered by a qualified contract for all or part of the funding year in Item 2 do NOT require filing of Form 470. A qualified contract is a signed, written contract executed pursuant to posting a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract.</p>
<p>8 <input type="checkbox"/> Telecommunications Services</p> <p><i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i></p> <p>a. <input type="checkbox"/> YES, I have an RFP. Choose one of the following: It is available on the Web at _____ or via <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.</p> <p>b. <input type="checkbox"/> NO, I do not have an RFP for these services.</p> <p>If you answered NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity(e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications Services, and remember that only common carrier telecommunications companies can provide these services under the universal service support mechanism. Add additional lines if needed.</p>
<p>9 <input type="checkbox"/> Internet Access</p> <p><i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i></p> <p>a. <input type="checkbox"/> YES, I have an RFP. Choose one of the following: It is available on the Web at _____ or via <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.</p> <p>b. <input type="checkbox"/> NO, I do not have an RFP for these services.</p> <p>If you answered NO, you must list below the Internet Access Services you seek. Specify each service or function (e.g., monthly Internet service) and quantity and/or capacity(e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internet Access Services. Add additional lines if needed.</p>
<p>10 <input checked="" type="checkbox"/> Internal Connections</p> <p><i>Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?</i></p>

a ☒ YES, I have an RFP. Choose one of the following: It is available on the Web at _____ or via ☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☒ NO, I do not have an RFP for these services.

If you answered NO, you must list below the Internal Connections Services you seek. Specify each service or function (e.g., local area network) and quantity and/or capacity (e.g., connecting 10 rooms and 300 computers at 56Kbps or better). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internal Connections Services. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:
Server	2
Wiring	Site
Wireless	Site
Hubs / Switches	100BaseT or Better
Wiring Cabinets / Racks	Site
Maintenance Agreement	1 Year
Backup	DLT
Video Conference Equipment	1 Unit
Documentation of Network Infrastructure	Site

11(Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the signer of this form.

Name: _____ Title: _____

Telephone number (10 digits + ext.)
() - - - - -

Fax number
() - - - - -

E-mail Address (50 characters max.)

12. ☐ Check here if there are any restrictions imposed by state or local laws or regulations on how or when providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or give Web address where they are posted.

13. (Optional) Purchases in future years: If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, summarize below (including the likely time-frames).

Block 3: Technology Assessment

14. ☐ Basic telephone service only: If your application is for basic local and/or long distance telephone service (wireline or wireless) only, check this box and skip to Item 16

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop communications software: Software required ☒ has been purchased; and/or ☒ is being sought.

b. Electrical systems: ☒ adequate electrical capacity is in place or has already been arranged; and/or ☒ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☒ is being sought.

d. Computer hardware maintenance: adequate arrangements <input checked="" type="checkbox"/> have been made; and/or <input checked="" type="checkbox"/> are being sought.
e. Staff development: <input checked="" type="checkbox"/> all staff have had an appropriate level of training or additional training has already been scheduled; and/or <input checked="" type="checkbox"/> training is being sought.
f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Service:

Check the ONE choice that best describes this application and the eligible entities that will receive the services described in this application.

You must select a state if (b) or (c) is selected:

a. ☒ Individual school or single-site library: Check here, and enter the billed entity in Item 17.

b. ☐ Statewide application (check all that apply):

- ☐ All public schools/districts in the state:
- ☐ All non-public schools in the state:
- ☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ If checked, complete Item 18.

c. ☐ School district, library system, or consortium application to serve multiple eligible entities:

Number of eligible entities	
<i>For these eligible entities, please provide the following</i>	
Area Codes (list each unique area code)	Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces
If your application includes INELIGIBLE entities, check here. <input type="checkbox"/> If checked, complete Item 18.	

17. Billed Entities	
Entity Name	Entity Number
HOLY TRINITY ELEMENTARY SCHOOL	7671

18. Ineligible Entities			
Ineligible Participating Entity	Entity Number	Area Code	Prefix

Block 5: Certification

19. The applicant includes:(Check one or both)

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, 20 U.S.C. Secs. 8801(14) and (25), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to) elementary and secondary schools, colleges and universities.

20. All of the individual schools, libraries, and library consortia receiving services under this application are covered by:

- a. ☒ individual technology plans for using the services requested in the application
- b. ☐ higher-level technology plans for using the services requested in the application
- c. ☐ no technology plan needed; application requests basic local and/or long distance telephone service only.

21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):

- a. ☐ technology plan(s) has/have been approved by a state or other authorized body.
- b. ☒ technology plan(s) will be approved by a state or other authorized body.
- c. ☐ no technology plan needed; application requests basic local and/or long distance telephone service only.

22. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. ☒ I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. ☒ I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: ☐

26. Date (mm/dd/yyyy):

27. Printed name of authorized person: Sr. Janet Roddy

28. Title or position of authorized person: Principal

29. Telephone number of authorized person: (201) 489 - 6870 ext.



EXHIBIT

J

MOTHER SETON INTERPAROCHIAL SHOOOL

**1501 New York Avenue
Union City, New Jersey 07087**

Phone: 201-863-8433

Caritas Christi Urget Nos

Fax: 201-863-8145

July 3, 2006

TO: Kelly Miller
FROM: Mary P. McErlaine
RE: Application #460618

Ms. Miller:

I am in receipt of your faxed received on June 21, 2006 asking me about an e-mail address entered on our Application #460618. The e-mail address in question being, sld@futuregeninc.com was actually entered as a technical contract address we use to communicate with Future Generation. This address was set up as an additional means of contacting our support company with any questions we need answered during the application process with regard to our exciting network environment. Since the entire e-rate process relates to technology and equipment, I thought it best to include a technical contact in this block. I did not fully understand that this needed to be an address associated with the school itself, and not one of the service provider.

All future applications reflect my personal e-mail address of mcerlaine@yahoo.com.

Thank you for your understanding in this matter.

EXHIBIT

K



Our Lady of Good Counsel High School

Accredited by Middle States Association of Colleges and Schools

TO: Kelly Miller
Program Compliance 2
Schools & Libraries Division

FROM: Ania Jarmulowicz, Vice Principal
Our Lady of Good Counsel Schools

RE: E-RATE Application #358346

DATE: June 27, 2006

Ms. Miller,

This is in response to your request for information pertaining to our Form 470 Application #762470000443379 for Funding Year 2003. The concern stated in your fax is questioning why Block 6 of our application includes a Future Generation e-mail address (sld@futuregeninc.com). The reason why an e-mail address belonging to Future Generation was entered on our application is simply due to a misunderstanding of its purpose, and miscommunication between Future Generation and us.

Future Generation offers technical support and maintenance for Our Lady of Good Counsel Schools. Assuming the technical questions would arise regarding our present network configuration, and that Future Generation would be equipped to answer such questions, we requested that Future Generation provide us with a contact e-mail address for this purpose. They created a separate address for this technical purpose, and provided it to us. Once again, they and we thought it was for technical questions regarding our exiting network, not for questions relating to future bids. We placed this address in Block 6 for this purpose.

We failed to understand that this e-mail address could be used in relation to the bidding process, which was not our intention. We truly misunderstood the purpose of this e-mail address, and its use in this block. In addition, after Future Generation learned that this e-mail address was sited in our application, they shut the address down to avoid any conflict of interest between a service provider and applicant. This was early in our E-Rate experiences. With the submission of each application, we gain a better understanding of what is actually being requested and hope to avoid supplying any incorrect information on future application. We apologize for this error, but caught it very early and prevented any conflict whatsoever, as Future Generation had no communication on our behalf.

Should you need additional information, please feel free to contact me at any time.

Sincerely,

Ania Jarmulowicz

Our Lady of Good Counsel High School • 243 Woodside Ave, Newark, NJ 07104 • Phone: (973) 482-1209; Fax: (973) 482-4321

EXHIBIT

L

ST. PATRICK SCHOOL
509 BRAMHALL AVENUE
JERSEY CITY, NJ 07304
(201) 433-4664 FAX (201) 433-0935

TO: Kelly Miller
Schools & Libraries Division

FROM: Pat West
St. Patrick School

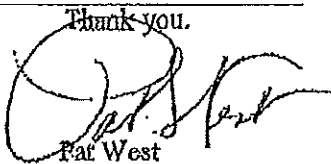
RE: E-rate Application #358142

Dear Kelly:

This is in response to correspondence received on June 21, 2006 with regard to our Form 470 application for funding year 2003. Please be advised that the following email address, sld@futuregeninc.com was used in error. In checking back through my files, I see that the application process for the 2003 funding year was started around the same time that Future Generation had created a "technical support" email address for their clients to use. This was meant as a means of communication to answer any questions during the application process regarding our existing infrastructure, which they maintain. Having not given it much thought, I simply put a technical contact email address in the application instead of my St. Patrick email address.

May I kindly ask that you update your records to reflect my personal email address of pwest@stpats-school.org. Please feel free to contact me if you have any further questions.

Thank you.



Pat West

EXHIBIT

M

ST. MARY HIGH SCHOOL
209 THIRD STREET
JERSEY CITY, NJ 07302
201-656-8008 FAX# 201-653-4518

SAINT MARY HIGH SCHOOL IS A CATHOLIC, COED COMMUNITY WHOSE MISSION IS TO
PROVIDE ITS ECONOMICALLY DISADVANTAGED YET RICHLY DIVERSE POPULATION WITH
EDUCATIONAL OPPORTUNITIES IN PREPARATION FOR HIGHER EDUCATION, VARIED CAREER
CHOICES, AND THE ACHIEVEMENT OF PERSONAL EXCELLENCE AS SOCIALLY RESPONSIBLE
CITIZENS. (MISSION STATEMENT DEC. 2000)

To: KELLY MILLER
PROGRAM COMPLIANCE
SCHOOLS & LIBRARIES DIVISION

From: BEATRIZ ESTEBAN
ST. MARY H.S. Jersey City 07302

Re: E-RATE APPLICATION # 359171

July 7, 2006

Dear Ms. Miller,

Please accept my apologies in entering an incorrect e-mail address on our Form 470 application for the 2003 funding year. ..

I inadvertently used an e-mail address that is assigned to us for technical support. Knowing most of the application process pertains to hardware/software and technology in general, Future Generation set up an e-mail address for their clients to ask any technical questions in relation to their existing network which may arise during the e-rate filing process. I thought it best to have any correspondence between the SLD and us go to this specific e-mail account. Understanding the importance of timely responses to the SLD, I chose to use this e-mail address so as not to overlook any important requests made during the application process. Unfortunately, I did not realize at the time that this e-mail address was designed for use between us and our technical support company to explain questions we may have about our network so that we could better understand and answer any questions the SLD may ask. This was not meant to be a means of contact between the SLD and Future Generation directly.

Please feel free to contact me if you have any additional questions. Thank you.

Sincerely yours,

Beatriz Esteban
Beatriz Esteban

EXHIBIT

N

BLESSED SACRAMENT SCHOOL

600 Clinton Avenue
Newark, New Jersey 07108
973-824-5859 Phone
973-824-2304 Fax
blessacsch@yahoo.com

Office of the Director

July 19th, 06

Dear Ms. Miller;

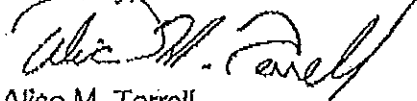
I am in receipt of a second request for information pertaining to our Form 470 application for the 2003 funding year.

First, please be advised that your fax dated July 11 is the first time I received this request, and did not receive the original correspondence sent on June 21. Secondly, please adjust your records to show myself being current principal at Blessed Sacrament School.

This brings me to my next explanation. I became principal of Blessed Sacrament starting with the 2005/2006 school year. Mr. Nathaniel L. Potts was principal prior to my employment and therefore was the contact person for the 2003 application process. Unfortunately, I have no contact information for Mr. Potts to further discuss the request for information you are asking for. However, in speaking with my staff they seem to recall that specific e-mail address (slid@futuregeninc.com). Their understanding was that this was an e-mail address set up by Future Generation (our support company at the time) to communicate questions back and forth pertaining to our network environment at that time and to better understand any questions asked of us from the SLD communicating directly with Future Generation.

I wish I could be of more help; unfortunately, I was not the person to complete the 2003 application and can only supply the information available to me at this time.

Sincerely,



Alice M. Terrell
Principal

EXHIBIT

O

Holy Trinity School

*43 Maple Avenue
Hackensack, NJ 07601
201-489-6870 Fax: 201-489-2981*

June 30, 2006

Kelly Miller
Program Compliance
USAC Schools & Libraries Division
Fax: 1-973-599-6582

Dear Ms. Miller:

I am responding to your fax dated 6/21/06 regarding our 2003 E-Rate application # 454997. Please accept our apologies in the confusion of entering an e-mail address belonging to Future Generation as a means of contact. I seem to recall having many issues with my personal e-mail address at the time the 470 application process started, and was hesitant to provide that e-mail as a means of contact. Therefore, I supplied an e-mail address set up by Future Generation for technical support between us and them to answer questions regarding our existing infrastructure which they have maintained for us on an as-needed basis.

Please note that the e-mail address indicated on my application, sld@futuregeninc.com is no longer in existence. If for some reason you need to have an accurate e-mail on record for me, please use jircog@aol.com. Again, I am sorry for any inconvenience this may have caused.

Sincerely,

Sister Janet Roddy, MFIC
Sister Janet Roddy, MFIC
Principal

EXHIBIT

P

- Future Generation Inc. -

*Computer Consulting
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700 Kinderkamack Rd. Suite 108 Oradell, NJ 07649
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201-265-6411
Fax: 201-265-6411

TO: KELLY MILLER
PROG COMPLIANCE 2
SCHOOLS & LIBRARIES DIVISION

FROM: HOWARD GERBER
Future Generation

RE: ATTACHED

DATE: July 19, 2006

Kelly,

It has been brought to our attention that several clients of ours are in receipt of a fax from you regarding their Form 470 Application for Funding Year 2003. The concern stated in your fax questions why Block 6 of their Form 470 includes a Future Generation e-mail address (sld@futuregeninc.com). We would like to expand on any information our clients may have already offered.

Future Generation has a very close working relationship with our clients. They look to us not only for technical support, but also for support in general. When faced with situations or questions they are not comfortable with, they look to us for guidance. In many cases, the schools receive numerous technical requests from various sources pertaining to their existing network infrastructure. Having been the support provider for these schools, Future Generation was most familiar with the network in place at the time they prepared the 470 applications. Several less technical clients inquired with us about the technicalities and limitations of their present environment at that time, and stated they required timely responses due to the nature of the E-Rate process, and needed to determine their additional requirements prior to filing their 470 forms. As their questions were numerous, and consistent for a period, we created a separate e-mail address (sld@futuregeninc.com). The purpose of this address was for schools to ask technical questions relating to their present environment. Also, this "specific" e-mail box would be treated as time sensitive by our staff, so as to comply with our clients' requests for a quick response. We receive a great deal of general e-mail and technical questions that are not time-sensitive in nature. The segregated mailbox allowed for the prioritization that the schools requested. This was meant to be a means of communication between our clients and us for questions about their present environment, such as the capacity of their

network, servers, bandwidth, hard drive space, speed / usage limitations, etc. It was NOT meant to be a means for the SLD, or potential vendors, to communicate with Future Generation, or the applicants.

Unfortunately, when asked for an e-mail address in their Form 470 application, they innocently thought they should put the e-mail address set up at Future Generation for technical support. Since a majority of the funding requests pertain to hardware and software, they assumed that any technical questions the SLD had in relation to these items would best be answered by us. They misunderstood our purpose of setting up this additional means of communication, and the purpose of the Block 6 request. They also overlooked the fact that service providers are not allowed to be involved on the applicant's behalf. When it came to our attention through some of these schools that they had listed this e-mail address on the application, we immediately terminated the mailbox to eliminate any involvement with their application. We are aware of the rules and regulations the FCC sets forth and would not jeopardize our client's funding by personally getting involved or influencing them in any way. We simply wanted to give our clients the opportunity to communicate any questions they had about their existing network so that they could respond to any requests for information from the SLD as timely and accurately as possible. Once again, I must reiterate that neither Future Generation nor any of its staff had any involvement in the preparation of, or content provided in, any 470 application, nor did we have any contact with any vendor / potential vendor. As the e-mail address was terminated immediately upon our awareness of its use, no correspondence was received through this address.

It is our hope that the above explanation resolves any confusion as to Future Generation's involvement with the Form 470 process. Again, we understand and respect the rules and regulations of the e-rate filing process and would never fail to comply with these regulations; therefore, we thought it best to clarify our lack of involvement personally.

EXHIBIT

Q



Federal Communications Commission
Washington, D.C. 20554

Memo

To: Future Generation, Inc.

From: Trent Harkrader, Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission

Date: August 13, 2012

Re: DA No. 12-1323, released August 10, 2012

Please find accompanying this memo the Bureau's decision on your appeal. The accompanying decision may be referenced in the future by its proceeding number and release date: DA No. 12-1323, Released August 10, 2012.

If the Bureau has granted your appeal, please contact the Universal Service Administrative Company (USAC) at 1-888-203-8100 for more information regarding your application. Please submit any information to USAC that the order may require. Once USAC has reviewed your application related to the issues resolved in the attached letter, you will receive a revised funding commitment decision letter.

If the Bureau has denied your appeal and you choose to seek consideration of the Bureau's decision, you must file either a petition for reconsideration by the Bureau or an application for review by the full Commission with the Commission within 30 days from the released date of this decision. You may file your petition for reconsideration or application for review using the Internet by accessing the Commission's electronic comment filing system (ECFS) at <http://fjallfoss.fcc.gov/ecfs2/>. Please be sure to reference CC Docket No. 02-6 on your filing.

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of)	
Decisions of the)	
Universal Service Administrator by)	
)	
Assumption-All Saints School, <i>et al.</i>)	SLD File Nos. 357472, <i>et al.</i>
Jersey City, New Jersey)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: August 10, 2012

Released: August 10, 2012

By the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Consistent with precedent,¹ we deny an appeal filed by 10 applicants and their service provider, Future Generation, Inc. (collectively, petitioners)² seeking review of decisions of the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program) for funding year 2003.³ In each decision, USAC found that by providing an e-mail address affiliated with their selected service provider, Future Generation, on their FCC Forms 470, the applicants tainted the competitive bidding process.⁴ USAC subsequently issued commitment adjustment (COMAD) letters rescinding the applicants' funding commitments.⁵

¹ See *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033, para.10 (stating that "the contact person exerts great influence over an applicant's competitive bidding process by controlling the dissemination of information regarding the services requested... when an applicant delegates that power to an entity that also will participate in the bidding process as a prospective service provider, the applicant irreparably impairs its ability to hold a fair and open competitive bidding process," and concluding "that a violation of the Commission's competitive bidding requirements has occurred where a service provider that is listed as the contact person on the Form 470 also participates in the competitive bidding process as a bidder") (*Mastermind Order*).

² See Letter from Raymond Barto, Kaps & Barto, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6 (dated Dec. 22, 2006) (Request for Review); Appendix.

³ Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

⁴ See, e.g., Letter from USAC, Schools and Libraries Division, to Raymond Barto, St. Mary High School (dated Nov. 16, 2006).

⁵ In the *Commitment Adjustment Implementation Order*, the Commission established procedures to recover funds disbursed to parties that obtained the funds in violation of the Commission's E-rate program. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, 97-21, 96-45, Order, 15 FCC Rcd 22975 (2001). Subsequently, in the *Schools and Libraries Fourth Report* (continued...)

2. In accordance with the Commission's competitive bidding rules, applicants must submit to USAC for posting to USAC's website an FCC Form 470, which describes the applicants planned service requirements and information regarding the applicant's competitive bidding process.⁶ The FCC Form 470 must be completed by the entity that will negotiate with prospective service providers and the applicant must name a person whom prospective service providers may contact for additional information.⁷ The competitive bidding process must be fair and open, not compromised because of improper conduct by the applicant and/or the service provider, and all potential bidders must have access to the same information and must be treated the same throughout the bidding procurement process.⁸ In this case, Future Generations was a service provider for each of the applicants and the ultimate winner in the competitive bidding process involving each of the applications at issue in this appeal. In each instance, the applicants provided Future Generation's email address as the preferred method for contacting the applicant on the relevant FCC Forms 470.⁹

3. The Commission has previously determined that a violation of the Commission's competitive bidding requirements occurs when a service provider is listed as the contact person on the FCC Form 470 and also participates in the competitive bidding process as a bidder.¹⁰ Consistent with that precedent, we find that by listing an email address affiliated with Future Generation and by instructing potential bidders to contact Future Generations, concerning their E-rate applications, each applicant committed a violation of the Commission's competitive bidding requirements. We therefore deny the request for review and direct USAC to continue recovery actions against the party or parties responsible for the violation.

4. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4

(Continued from previous page)

and Order, the Commission modified the rules governing COMAD recovery actions to allow USAC to pursue recovery actions against the party responsible for the violation such as the school, library, or service provider. *See Federal-State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21 and 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15255-15257, para. 10-15 (2004). The Commission stated that the modified rules should apply to COMAD recovery actions that were under appeal to USAC or the Commission. *See id.* at 15255-15256, para. 10.

⁶ 47 C.F.R. § 54.503, *see* Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 (April 2002) (FCC Form 470).

⁷ *See* FCC Form 470.

⁸ *See, e.g., Schools and Libraries Universal Service Support Mechanism*, Third Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 02-6, 18 FCC Rcd 26912, 26939, para. 66 (stating that a fair and open competitive bidding process is critical to preventing waste, fraud, and abuse of program resources); *See Mastermind Order*, 16 FCC Rcd at 4033, para. 10 (finding that the FCC Form 470 contact person influences an applicant's competitive bidding process by controlling the dissemination of information regarding the services requested and, when an applicant delegates that power to an entity that also participates in the bidding process as a prospective service provider, the applicant impairs its ability to hold a fair competitive bidding process); *Request for Review by Approach Learning and Assessment Center, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 22 FCC Rcd 5296, 5303, para. 19 (Wireline Comp. Bur. 2007) (finding that service provider participation may have suppressed fair and open competitive bidding). *See Schools and Libraries Universal Service Support Mechanism and A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket 02-6, 25 FCC Rcd 18762, 18798-800, paras. 85-86 (2010) (codifying the existing requirement that the E-rate competitive bidding process be fair and open); 47 C.F.R. § 54.503.

⁹ *See e.g., FCC Form 470, St. Patrick School* (dated Dec. 5, 2002).

¹⁰ *Mastermind Order*, 16 FCC Rcd at 4033, para. 10.

and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 54.722(a), that the request for review filed by the petitioners listed in the Appendix IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

APPENDIX

Petitioner	Application Number	Funding Year	Date Appeal Filed
Assumption-All Saints School Jersey City, New Jersey	357472	2003	Dec. 22, 2006
Blessed Sacrament School Newark, New Jersey	358234	2003	Dec. 22, 2006
Holy Trinity Elementary School Hackensack, New Jersey	357557	2003	Dec. 22, 2006
Mother Seton Parochial School Union City, New Jersey	357662	2003	Dec. 22, 2006
Our Lady Help of Christians School East Orange, New Jersey	357752	2003	Dec. 22, 2006
Our Lady of Good Counsel Elementary School Newark, New Jersey	359187	2003	Dec. 22, 2006
Our Lady of Good Counsel Schools Newark, New Jersey	358346	2003	Dec. 22, 2006
St. Lucy's School Newark, New Jersey	359178	2003	Dec. 22, 2006
St. Mary's High School Jersey City, New Jersey	359171	2003	Dec. 22, 2006
St. Patrick School Jersey City, New Jersey	358142	2003	Dec. 22, 2006
Future Generation, Inc. Oradell, New Jersey	357472 358234 357557 357752 359187 358346 359178 359171 358142	2003	Dec. 22, 2006

EXHIBIT

R



Federal Communications Commission
Washington, D.C. 20554

Memo

To: Raymond Barto, Esq. for
Assumption-All Saints School, Our Lady Help of Christians School,
St. Patrick School, Blessed Sacrament School, St. Mary High School,
Mother Seton Parochial School, et al.

From: Ryan B. Palmer, Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission

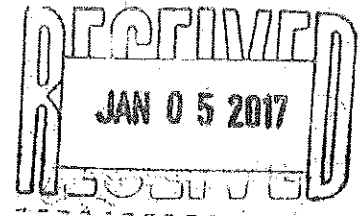
Date: January 3, 2016

Re: DA No. 16-1448, released December 29, 2016

Please find accompanying this memo the Bureau's decision on your appeal. The accompanying decision may be referenced in the future by its proceeding number and release date: DA No. 16-1448, Released December 29, 2016.

If the Bureau has granted your appeal, please contact the Universal Service Administrative Company (USAC) at 1-888-203-8100 for more information regarding your application. Please submit any information to USAC that the order may require. Once USAC has reviewed your application related to the issues resolved in the attached letter, you will receive a revised funding commitment decision letter.

If the Bureau has denied your appeal and you choose to seek consideration of the Bureau's decision, you must file either a petition for reconsideration by the Bureau or an application for review by the full Commission with the Commission within 30 days from the released date of this decision. You may file your petition for reconsideration or application for review using the Internet by accessing the Commission's electronic comment filing system (ECFS) at <http://fjallfoss.fcc.gov/ecfs2/>. Please be sure to reference CC Docket No. 02-6 on your filing.



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 16-1448

Released: December 29, 2016

STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 02-6
WC Docket Nos. 02-60 and 13-184

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

Schools and Libraries (E-rate)

CC Docket No. 02-6
WC Docket No. 13-184

Dismissed³

Islamic Elementary School C, NY, Application No. 1048767, Request for Review, CC Docket No. 02-6 (filed Nov. 29, 2016)

Nay Ah Shing School, MN, Application No. 1017050, Request for Review, CC Docket No. 02-6 (filed Nov. 15, 2016)

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (WCB 2014). Section 54.719(b) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Section 54.719(c) of the Commission's rules provides that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR § 54.719(b)-(c). In this Public Notice, we have reclassified as Requests for Waiver those appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules. Similarly, we have reclassified as Requests for Review those appeals seeking a waiver of the Commission's rules but are actually seeking review of a USAC decision.

² See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by La Canada Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4729, 4729, para. 2 (WCB 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Dismissed as Moot⁴

St. Ann School, NY, Application No. 1050274, Request for Waiver, CC Docket 02-6 (filed Sept. 22, 2016)

Shiras Chaim, NJ, Application Nos. 1045476, 1048171, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 3, 2016)

Dismissed on Reconsideration⁵

Assumption-All Saints School, Blessed Sacrament School, Holy Trinity Elementary School, Mother Seton Parochial School, Our Lady Help of Christians School, Our Lady of Good Counsel Elementary School, Our Lady of Good Counsel High School, St. Lucy's School, St. Mary's High School, St. Patrick School, and Future Generation, Inc., NJ, Application Nos. 357472, 358234, 357557, 357662, 357752, 359187, 358346, 359178, 359171, 358142, Petition for Reconsideration, CC Docket No. 02-6 (filed Sept. 7, 2012)⁶

⁴ See, e.g., *Request for Review and/or Request for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223, 8224, para. 2 (WCB 2012) (*Al Noor High School Order*) (dismissing as moot requests for review where USAC approved the underlying funding request).

⁵ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (*Allan Shivers Library Order*) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

⁶ In addition to relying on arguments already rejected by the Bureau, petitioners also argue that reconsideration is justified based on the decision in *Request for Review of A Decision of the Universal Service Administrator by Queen of Peace High School; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 16466 (WCB 2011) (*Queen of Peace Order*). We disagree. In the *Queen of Peace Order*, we found that the applicant's competitive bidding process was not compromised by its inclusion of a particular service provider's name on its FCC Form 470 because the applicant also indicated more generally that it was seeking bids for the requested services. However, the violation in the present case does not involve the applicants including a particular service provider name in its list of requested services. Rather, the applicants violated competitive bidding rules when they listed the winning service provider's e-mail address under the "Contact Information" section of their FCC Forms 470. The Commission has previously held that "that a violation of the Commission's competitive bidding requirements has occurred where a service provider that is listed as the contact person on the Form 470 also participates in the competitive bidding process as a bidder," which is the exact circumstance that occurred here. See *Request for Review of the Decisions of the Universal Service Administrator by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033, para. 10 (2000) (*Mastermind Internet Services Order*). Accordingly, the decision in the *Queen of Peace Order* does not control the facts of the present appeal and we deny petitioners' new argument on the merits. See, e.g., *Petitions for Reconsideration by Bloomfield Public School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9973, 9975, para. 5 (WCB 2013) (denying petition for reconsideration on the merits because the denial was fully supported by cited precedent that clearly prohibited the actions taken by the petitioner).

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements⁷

Miracle City Academy, OH, Application Nos. 161056816, 161056841, CC Docket No. 02-6 (filed Dec. 7, 2016)

The Village Academy, MD, No Application Number Given, CC Docket No. 02-6 (filed Dec. 13, 2016)

Hancock County Library System, MS, Application Nos. 354032, 393974, 479566, 483775, 534582, 581931, 635497, Petition for Reconsideration, CC Docket No. 02-6 (filed June 9, 2015)

Leland Community Unit School District No. 1, IL, Application No. 1004381, Petition for Reconsideration, CC Docket No. 02-6 (filed Dec. 8, 2016)

Plano Community Unit School District No. 88, IL, Application Nos. 161055957, 161056010, Petition for Reconsideration, CC Docket No. 02-6 (filed Oct. 27, 2016)

Skyline R-II School District, MO, Application No. 161061801, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 7, 2016)

Torah Institute of Baltimore, Application Nos. 813281, 869063, Petition for Reconsideration, CC Docket No. 02-6 (filed Aug. 14, 2015)

Tse ii'Ahi Community School, NM, Application No. 812604, Petition for Reconsideration, CC Docket No. 02-6 (filed June 29, 2016)

⁷ 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by USAC, including the requirement that the request for review include supporting documentation); *see also Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology; Request for Review by Alternative Phone, Inc. and Request for Waiver*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

Granted⁸

Discount Calculation⁹

Seneca Family of Agencies, NJ, Application No. 1043202, Request for Review, CC Docket 02-6 (filed Mar. 20, 2016)

VERNET, Inc. (Academia Regional Adventista de Caguas), PR, Application Nos. 1044429, 1044358, 1044389, Request for Waiver, CC Docket 02-6 (filed Sept. 20, 2016)

VERNET, Inc. (The Kingdom Christian Academy), PR, Application No. 1044975, Request for Waiver, CC Docket 02-6 (filed May 20, 2016)

VERNET, Inc. (Southeastern Victory College), PR, Application No. 1043252, Request for Waiver, CC Docket 02-6 (filed Sept. 20, 2016)

Certification of FCC Form 470¹⁰

Shiras Chaim, NJ, Application No. 1051302, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 4, 2016)¹¹

⁸ We remand these applications to USAC and direct USAC to complete its review of the applications, and issue a funding commitment or a denial based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. *See* 47 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

⁹ *See, e.g., Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10709, para. 14 (Wireline Comp. Bur. 2006) (*Academia Claret Order*); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Bright Star Schools Consortium et al.; Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 11204, 11204, para. 1 (WCB 2013) (*Bright Star Schools Consortium Order*) (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate). Consistent with precedent, we also find good cause exists to waive section 54.720(a) and (b) of the Commission's rules, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. *See, e.g., Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, 11019, para. 2 (WCB 2011) (*ABC Unified School District Order*) (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

¹⁰ *See, e.g., Request for Waiver of the Decision of the Universal Service Administrator by Barberton City School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 15526, 15532, para. 10 (WCB 2008) (*Barberton City School District Order*) (granting appeal on the merits where the applicant submitted evidence to the Commission demonstrating compliance with the Commission's rules).

¹¹ Also, we find good cause exists to waive section 54.720 of the Commission's rules for Application Number 1051302 because we find that the petitioner submitted its appeal to the Commission within a reasonable period of time after actual notice of a clerical error. *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924-25, para. 1 (WCB 2012) (waiving section 54.720 of the Commission's rules where the applicant submitted its appeal to the Commission within a reasonable period of time after actual notice of a clerical error).

*FCC Form 486 – Late Filed*¹²

Cardinal Mooney High School, OH, Application No. 1033757, Request for Waiver, CC Docket No. 02-6 (filed Sept. 23, 2016)

Plato Academy Charter School, FL, Application No. 1049753, Request for Waiver, CC Docket No. 02-6 (filed Dec. 14, 2016)

Plato Academy Charter School, FL, Application No. 1049050, Request for Waiver, CC Docket No. 02-6 (filed Dec. 14, 2016)

*Granting Additional Time to Respond to USAC's Request for Information*¹³

Abraham Joshua Heschel School, NJ, Application Nos. 161038489, 161042264, 161044793, 161051507, Request for Waiver, CC Docket No. 02-6 (filed Oct. 21, 2016)

Bergen Catholic School, NJ, Application Nos. 161042619, 161044925, Request for Waiver, CC Docket No. 02-6 (filed Oct. 22, 2016)

Center For Family Resources, NJ, Application No. 161039163, Request for Waiver, CC Docket No. 02-6 (filed Oct. 22, 2016)

Center For Family Resources, NJ, Application No. 161041179, Request for Waiver, CC Docket No. 02-6 (filed Oct. 22, 2016)

*Grant on Reconsideration – Appeal Filing Deadline*¹⁴

¹² See, e.g., *Requests for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182, 10185, para. 6 (WCB 2006) (*Alaska Gateway Order*) (granting appeals where applicants filed their FCC Forms 486 late as the result of immaterial clerical, ministerial or procedural errors, or filed late due to circumstances beyond their control); *Requests for Waiver of Decisions of the Universal Service Administrator by Archdiocese of New Orleans, Louisiana et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 11747, 11751, para. 11 (WCB 2016) (establishing a more rigid standard for late-filed FCC Forms 486 but continuing to apply the current *Alaska Gateway Order*-based standard to appeals filed with USAC or the Commission before January 30, 2017).

¹³ See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007); *Requests for Review of Decisions of the Universal Service Administrator by Ben Gamla Palm Beach et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 1876 (Wireline Comp. Bur. 2014) (granting requests for review of applicants that had been denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame). Consistent with precedent, we also find good cause exists to waive section 54.720(a) and (b) of the Commission's rules for these petitioners, which requires that petitioners file their appeals within 60 days of an adverse USAC decision. See, e.g., *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC only a few days late).

McDowell County Schools, WV, Application No. 854118, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 13, 2016)

*Improper Service Provider Involvement*¹⁵

Batavia Local School District, OH, Application Nos. 517837, 574113, 621721, 679041, 739873, 808433, Request for Review, CC Docket No. 02-6 (filed Mar. 20, 2012)

Boys and Girls Village, Inc. (formerly known as Boy's Village Youth and Family Services, Inc.), CT, Application No. 346207, Request for Review, CC Docket No. 02-6 (filed Nov. 30, 2006)

West Texas Telecommunications Consortium, TX, Application No. 569482, Request for Review, CC Docket No. 02-6 (filed Jan. 11, 2011)

*Late-Filed FCC Form 471 Certifications*¹⁶

Saint Philip School, RI, Application No. 1042389, Request for Waiver, CC Docket 02-6 (filed Aug. 3, 2016)

*Late-Filed FCC Form 471 Application*¹⁷

Thompson Public Library, IA, Application No. 161061682, Request for Waiver, CC Docket 02-6 (filed Sept. 19, 2016)

*Ministerial and/or Clerical Error – FCC Form 471*¹⁸

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¹⁴ See, e.g., *Petitions for Reconsideration by Callisburg Independent School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9461, para. 5 (WCB 2013) (granting petition for reconsideration where, upon reconsideration of the record, we do not find that the evidence supports our previous determination); *ABC Unified School District Order*, 26 FCC Rcd at 11019, para. 2 (waiving the filing deadline for petitioners that submitted their appeals to the Commission or USAC within a reasonable period of time after receiving actual notice of USAC's adverse decision).

¹⁵ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd 2784, 2789, para. 13 (WCB 2008) (granting appeal and finding that applicant provided evidence that there was no improper service provider involvement where applicant asserted by sworn statement and under penalty of perjury that the service provider did not participate in the competitive bidding process).

¹⁶ See, e.g., *Allan Shivers Library Order*, 29 FCC Rcd at 10357, para. 1 & n.7 (granting waivers to petitioners failing to certify an FCC Form 471 where the form itself was filed within 14 days of the close of the filing window).

¹⁷ See, e.g., *Request for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order 25 FCC Rcd 9256, 9259-60, paras. 8-9 (2010) (*Academy of Math and Science Order*) (granting waiver requests where petitioners filed their applications within 30 days of the close of the FCC Form 471 filing window deadline despite unexpected medical issues).

Bevove Tomer Dvorah, NY, Application No. 910307, Request for Waiver, CC Docket No. 02-6 (filed Aug. 27, 2014)

Edgewood Independent School District, OK, Application No. 1000541, Request for Waiver, CC Docket 02-6 (filed May 6, 2016)

United Systems (Graham Independent School District 32), OK, Application No. 675022, Request for Review and/or Waiver, CC Docket 02-6 (filed July 22, 2013)

*Payment of Applicant's Share of Pre-discount Price*¹⁹

FiberLight, LLC (Ballinger Independent School District), TX, Application No. 904079, Request for Waiver, CC Docket 02-6 (filed May 26, 2015)

*Service Implementation Delay*²⁰

Greyhills Academy High School, AZ, Application No. 729399, Request for Waiver, CC Docket No. 02-6 (filed May 10, 2016)²¹

*Signed Contract Requirement*²²

Cherry Valley Public Library District, IL, Application No. 948945, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2014)²³

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¹⁸ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17319-20, para. 2, n.5, n.19, n.20 (WCB 2010) (permitting applicants to correct clerical errors like indicating the wrong service category on FCC Form 471, mischaracterizing a non-recurring charge as a recurring charge, or failing to enter an item from the source list onto an application).

¹⁹ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Al-Ihsan Academy, et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1927 (WCB 2012) (granting an appeal from a petitioner that demonstrated it paid the required portion of the E-rate purchase price).

²⁰ See, e.g., *Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-53, para. 2 (WCB 2014) (*Accelerated Charter Order*) (allowing extensions of the deadline for service implementation when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers' control and made significant efforts to secure the necessary extensions).

²¹ Because we grant Greyhills Academy High School's appeal and give the school additional time for completion of its project, we dismiss as moot its subsequent request for waiver, filed September 2, 2016, seeking an invoice deadline extension for the funding request at issue in this appeal. See *supra* note 8 (waiving any deadlines that might be necessary to effectuate our ruling).

²² See, e.g., *Barberton City School Order*, 23 FCC Rcd at 15529-30, para. 7; *Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Amphitheater Unified School District 10 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 7536, 7536-37, para. 2 (WCB 2013) (granting waivers of the signed contract requirement in instances where applicants misunderstood the program rules and submitted their FCC Form 471 applications before signing a contract).

²³ We also dismiss as moot a related filing made January 29, 2014 on behalf of the Cherry Valley Public Library District for application number 893913 for funding year 2013.

*State Master Contract*²⁴

Dublin City School District, GA, Application No. 865085, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 15, 2012)

*Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-Price Solution*²⁵

Atlanta Public Schools, GA, Application No. 765738, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 2, 2012)

Partially Granted

*Basic Maintenance of Internal Connections*²⁶

Schenectady City School District, NY, Application Nos. 519873, 672419, 672438, 675305, Requests for Review, CC Docket No. 02-6 (Apr. 20, 2007 and Dec. 8, 2009)

*Reclassifying Funding Requests*²⁷

Cleveland Heights School District, OH, Application Nos. 367760, 367865, 368133, 368291, 368361, 368415, 368485, 368539, Requests for Review, CC Docket No. 02-6 (Apr. 22, 2004)

*Waiver of Price as Primary Factor Requirement: Applicant Selected Lowest-Price Solution*²⁸

²⁴ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Paterson School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 13101, 13104, para. 7 (WCB 2006) (finding that a state master contract was continuously in effect throughout the funding year and therefore USAC's policy on expiring state master contracts was not applicable).

²⁵ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115-17, paras. 10-12 (WCB 2011) (*Allendale County School District Order*) (waiving the requirement that an applicant be able to demonstrate that it used price as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud or abuse).

²⁶ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Chicago Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 4114, 4118, para. 9 (2011) (waiving section 54.504(d) of the Commission's rules to permit petitioners to remove services from their funding requests so that they can receive funding for eligible basic maintenance services). See also *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26921-22, para. 23 (2003) (defining eligible and ineligible basic maintenance). First, we direct USAC to give the petitioner an opportunity to remove the costs of the PBX Edge License maintenance from the funding year 2006 funding request so that USAC may switch the category of the service for the request back to basic maintenance as originally requested by the petitioner. Then, we direct USAC to reexamine the 2-in-5 rule implications for the petitioner's funding year 2009 application and seek additional information from the petitioner as appropriate so that USAC can process and make a final determination on the application.

²⁷ See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007) (deciding that the applicants' entire funding requests should not have been treated as Priority Two services simply because more than 30 percent of their funding requests were for Priority Two services and directing USAC to reassess funding requests after allowing applicants the opportunity to remove services).

Wheeling School District 21, IL, Application Nos. 853285, 853298, 854902, 854925, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 18, 2013)²⁹

Denied

*Failure to Adhere to Evaluation Criteria During Vendor Selection Process*³⁰

Atlanta Public Schools, GA, Application No. 762323, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Mar. 2, 2012)

Atlanta Public Schools, GA, Application No. 819508, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Apr. 5, 2012)

*Failure to Produce Documentation Regarding Vendor Selection Process*³¹

Orange County Library System, FL, Application No. 808172, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Oct. 28, 2016)

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²⁸ See, e.g., *Allendale County School District Order*, 26 FCC Rcd at 6115-17, paras. 10-12 (waiving the requirement that an applicant be able to demonstrate that it used price as the primary factor in vendor selection when the applicant selected the lowest priced option and there was no evidence of waste, fraud or abuse).

²⁹ We grant a waiver with respect to FRNs 2320185, 2320206, 2320214, but deny the request for waiver for FRN 2320919. See *Requests for Review of Decisions of the Universal Service Administrator by Net56, Inc., Wheeling School District 21; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13122, 13126-27, paras. 8-10 (WCB 2013) (granting a waiver of requirement that the applicant demonstrate that it used price as the primary factor where Wheeling demonstrated that they selected the lowest price vendor for Internet access, Wide Area Network, and web hosting services, but denying a waiver with respect to email hosting service). We also grant a waiver for FRNs 2325672, 2325678, and 2325737, where the applicant demonstrated that it selected the lowest priced option. See, e.g., *Allendale County School District Order*, 26 FCC Rcd at 6115-17, paras. 10-12. Finally, with respect to FRN 2319939, 2325726, and each of the aforementioned FRNs, we grant the applicant 15 days to submit supporting discount calculation documentation to USAC for funding year 2012. See, e.g., *Academia Claret Order*, 21 FCC Rcd at 10709, para. 14; *Bright Star Schools Consortium Order*, 28 FCC Rcd at 11204, para. 1 (granting applicants a limited 15-day opportunity to file additional documentation to support their calculation of the correct discount rate).

³⁰ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Central Islip Free Union School District et al; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 8630, 8638, para. 17 (WCB 2011) (*Central Islip Free Union School District*) (denying funding requests where the evidence demonstrated that applicant "failed to adhere to its own evaluation criteria in the vendor selection process"): In addition, we deny the appeal for Application Number 762323 on the basis that Atlanta Public Schools (APS) provided an unfair advantage to the winning bidder by involving them in the competitive bidding process. As a result, APS compromised a fair and open competitive bidding process because all potential bidders did not have access to the same information. See, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9076, para. 480 (1997) (subsequent history omitted) (requiring competitive bidding processes to be fair and open such that no bidders receive an unfair advantage); *Mastermind Internet Services Order*, 16 FCC Rcd at 4033, para. 10 (stating that a service provider participating in the competitive bidding process cannot be involved in the preparation of the entity's technology plan, FCC Form 470 or RFP).

³¹ See, e.g., *Central Islip Free Union School District Order*, 26 FCC Rcd at 8635-36, paras. 11-12 (denying appeal where the applicant failed to produce documentation regarding its vendor selection process and, thus, could not demonstrate compliance with the E-rate program's competitive bidding rules).

*Reclassifying Funding Requests*³²

School District of Marinette, WI, Application No. 584184, Request for Review, CC Docket No. 02-6 (filed Apr. 24, 2008)

*Invoice Deadline Extension Requests*³³

Big Horn County School District 1, WY, Application Nos. 1014191, 1029895, Request for Waiver, CC Docket No. 02-6 (filed Nov. 28, 2016)

Centennial Board of Cooperative Educational Services, CO, Application No. 1043031, Request for Waiver, CC Docket No. 02-6 (filed Nov. 16, 2016)

Chambersburg District Public Libraries, PA, Application No. 1042681, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2016)

Community Action of South Eastern West Virginia Head Start, WV, Application No. 1029133, Request for Waiver, CC Docket No. 02-6 (filed Dec. 7, 2016)

Madison County Telephone Company, Inc. (County of Madison, Huntsville School, Jasper School District), AR, Application Nos. 998034, 1006133, 1011601, 1043103, 1042541, Request for Waiver, CC Docket No. 02-6 (filed Nov. 29, 2016)

Malverne Public Library, NY, Application No. 966927, Request for Waiver, WC Docket No. 13-184 (filed Aug. 26, 2016)

Narragansett School System, RI, Application Nos. 1035662, 1039020, Request for Waiver, CC Docket No. 02-6 (filed Dec. 7, 2016)

New America School, CO, Application Nos. 950676, 1016941, 1039150, Request for Waiver, CC Docket No. 02-6 (filed Nov. 10, 2016)

Oskaloosa Christian School, IA, Application No. 161034412, Request for Waiver, CC Docket No. 02-6 (filed Nov. 27, 2016)

Plumas Lake Elementary School District, CA, Application No. 941993, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2016)

³² See, e.g., *Request for Review of the Decision of the Universal Service Administrator by Des Moines Municipal School District No.22; Federal-State Joint Board on Universal Service; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 23926, 23927-23928, para. 4 (WCB 2003) (concluding that USAC made the correct decision to reclassify a component requested in the Priority One telecommunications service category to the Priority Two internal connections category when that component was listed in the Eligible Services List as Priority Two internal connections).

³³ See, e.g., *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice extension rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); see also *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances); 47 CFR § 54.514.

Ravenna School District, OH, Application No. 984345, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2016)

Seven Hills Charter Public School, MA, Application No. 1036770, Request for Waiver, CC Docket No. 02-6 (filed Nov. 7, 2016)

St. Rose School, OH, Application No. 1036310, Request for Waiver, CC Docket No. 02-6 (filed Nov. 15, 2016)

Thousand Islands Central School, NY, Application No. 1003530, Request for Waiver, CC Docket No. 02-6 (filed Nov. 28, 2016)

Village Leadership Academy, IL, Application No. 1022581 (FRN 2775243), Request for Waiver, CC Docket No. 02-6 (filed Nov. 29, 2016)

Village Leadership Academy, IL, Application No. 1022581 (FRN 2775250), Request for Waiver, CC Docket No. 02-6 (filed Nov. 29, 2016)

*Late-Filed FCC Form 471 Applications*³⁴

Brady Public Schools, NE, Application No. 161062149, Request for Waiver, CC Docket 02-6 (Nov. 18, 2016)

Chaminade High School, NY, Application No. 161061839, Request for Waiver, CC Docket 02-6 (Nov. 17, 2016)

Duluth Public Library, MN, Application No. 161010125, Request for Waiver, WT Docket No. 13-59 (filed July 29, 2016)

Hawley Public Library, PA, Application No. 161008927, Request for Waiver, CC Docket 02-6 (filed Nov. 16, 2016)

St. Michael School, OH, Application No. 161061994, Request for Waiver, CC Docket 02-6 (filed Oct. 21, 2016)

Sterling Community School, CT, Application No. 161061814, Request for Waiver, CC Docket 02-6 (filed Oct. 18, 2016)

*Ministerial and/or Clerical Errors – FCC Form 471*³⁵

Whiteside School District 115, IL, Application No. 1027621, Request for Waiver, CC Docket 02-6 (filed Oct. 13, 2016, supplemented Dec. 6, 2016)

³⁴ See, e.g., *Academy of Math and Science Order*, 25 FCC Rcd at 9259, para. 8 (denying requests for waiver of the FCC Form 471 filing window deadline where petitioners failed to present special circumstances justifying waiver of our rules).

³⁵ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (WCB 2012) (finding petitioners had not demonstrated good cause to justify waivers permitting changes to the applicants' E-rate applications).

*Unjustified Service Implementation Delay*³⁶

El Monte Union High School District, CA, Application No. 819756, Request for Waiver, CC Docket No. 02-6 (filed Oct. 31, 2016)

Shiprock Alternative High School, NM, Application Nos. 857469, 857657, Request for Review, CC Docket No. 02-6 (filed June 8, 2015)

Ukiah Unified School District, CA, Application No. 1008909, Request for Waiver, CC Docket No. 02-6 (filed Nov. 14, 2016)

*Untimely Filed Requests for Review*³⁷

Calvert Catholic School, OH, Application Nos. 161058294, 161058288, Request for Waiver, CC Docket No. 02-6 (filed Nov. 15, 2016)

Charter Fiberlink – Illinois, LLC (East St. Louis School District 189), IL, Application No. 974199 (FRN 2694960), Request for Waiver, CC Docket No. 02-6 (filed Dec. 9, 2016)

Cristo Rey Jesuit High School – Chicago, IL, Application No. 161057793, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Cristo Rey Jesuit High School – Chicago, IL, Application No. 161058333 (FRNs 1699135804, 1699135806), Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Cristo Rey Jesuit High School – Chicago, IL, Application No. 161058333 (FRN 1699135805), Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Edenton-Chowan Public Schools, NC, Application No. 953922, Request for Waiver, CC Docket No. 02-6 (filed Dec. 8, 2016)

Grace Christian Academy, WI, Application No. 161024322, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Higbee R-III School District, MO, Application No. 161057826, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Holmen School District, WI, Application No. 161054211, Request for Waiver, CC Docket 02-6 (filed Nov. 16, 2016)

³⁶ See, e.g., *Accelerated Charter Order*, 29 FCC Rcd at 13653, para. 3 (denying late-filed extensions of the deadline for service implementation when applicants failed to demonstrate they were unable to complete implementation on time for reasons beyond the service providers' control and failed to make significant efforts to secure the necessary extensions in a timely manner).

³⁷ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (WCB 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823 (WCB 2014) (denying appeals on the grounds that the petitioners failed to submit their appeals either to the Commission or to USAC within 60 days, as required by the Commission's rules, and did not show special circumstances necessary for the Commission to waive the deadline).

Maranatha Academy, KS, Application No. 161058176, Request for Waiver, CC Docket 02-6 (filed Sept. 6, 2016)

McKinney Christian Academy, TX, Application No. 161058334, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Meridian Community Unit School District 15, IL, Application No. 1034219, Request for Review, CC Docket No. 02-6 (filed Dec. 6, 2016)

Potters House Christian Academy, FL, Application No. 161058326, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Pribilof School District, AK, Application No. 161061517, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Solid Rock Community School, FL, Application No. 161058336, Request for Waiver, CC Docket 02-6 (filed Nov. 18, 2016)

Statesville Christian School, Inc. NC, Application No. 161058324, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

The Cambridge School, CA, Application No. 161057833, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Valley Christian School (Youngstown), OH, Application No. 161058332, Request for Waiver, CC Docket No. 02-6 (filed Nov. 18, 2016)

Waterside School, CT, Application No. 1026489, Request for Review, CC Docket No. 02-6 (filed Mar. 20, 2016)

Whitehead School District C 16, OK, Application No. 1010186, Request for Review, CC Docket No. 02-6 (filed May 5, 2016)

Rural Health Care (RHC)
WC Docket No. 02-60

Dismissed as Moot³⁸

Ilanka Community Health Center, HCP No. 11932, Petition for Reconsideration and Waiver, WC Docket No. 02-60 (filed Nov. 30, 2015)

³⁸ See, e.g., *Al Noor High School Order*, 27 FCC Rcd at 8224, para. 2 (dismissing appeals as moot where USAC approved the underlying funding request).

Denied

*Ineligible Entity*³⁹

Tuolumne MeWuk Indian Health Center, Request for Waiver, HCP No. 17521, WC Docket No. 02-60 (filed Aug. 2, 2016)

For additional information concerning this Public Notice, please contact James Bachtell in the Telecommunications Access Policy Division, Wireline Competition Bureau, at james.bachtell@fcc.gov or at (202) 418-7400.

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³⁹ To be eligible for support under the Rural Health Care (RHC) Program, a health care provider (HCP) must meet one of the qualification criteria set forth in the Commissions' rules and be located in a "rural area." See 47 CFR § 54.600. A "rural area" is defined as an area that is entirely outside of a Core Based Statistical Area (CBSA); is within a CBSA that does not have an urban area with a population of 25,000 or greater; or is in a CBSA that contains an urban area with a population of 25,000 or greater, but is within a specific census tract that itself does not contain any part of a place or urban area with a population of greater than 25,000. See 47 CFR § 54.600(b). In the instant matter, Tuolumne MeWuk Indian Health Center (TMIHC), located in Tuolumne County, seeks a waiver of section 54.600(b) of the Commission's rules. TMIHC states that Tuolumne County has been re-classified as "non-rural" by the 2010 Census and, consequently, TMIHC is no longer eligible for RHC program support. TMIHC argues that Tuolumne County should continue to be classified as "rural" for purposes of RHC eligibility because (1) TMIHC will not be able to afford its current levels of broadband without support, resulting in reduced health care access for residents of Tuolumne County; and (2) the population of Tuolumne County is now less than it was in 2000 when the entire area was classified as rural. As acknowledged in TMIHC's petition, the 2010 Census enlarged and renamed the CBSA in which Tuolumne County is located. The CBSA is now considered to be a large CBSA with a total population of over 25,000. See 2010 Census, http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/uc/uc83073_sonora--jamestown--phoenix_lake_ca/DC10UC83073.pdf (last viewed Oct. 18, 2016). Because TMIHC is not located in a "rural area" as defined in the Commission's rules, it is not eligible for RHC program support. Further, the underlying record in this instance does not reveal the existence of special circumstances warranting a waiver of RHC program rules. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (stating that waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule). We therefore deny TMIHC's request for waiver.